

# Medical Licensing Board of Indiana

A compilation of the Indiana Code and Indiana Administrative Code

2008 Edition



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# MEDICAL LICENSING BOARD OF INDIANA

2008 Edition

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INDIANA CODE § 25-22.5

ARTICLE 22.5. PHYSICIANS

INDIANA CODE § 25-22.5-1

Chapter 1. Definitions and Exclusions

IC 25-22.5-1-1 Repealed

*(Repealed by Acts 1978, P.L.8, SEC.14.)*

IC 25-22.5-1-1.1 Definitions

Sec. 1.1. As used in this article:

- (a) "Practice of medicine or osteopathic medicine" means any one (1) or a combination of the following:
  - (1) Holding oneself out to the public as being engaged in:
    - (A) the diagnosis, treatment, correction, or prevention of any disease, ailment, defect, injury, infirmity, deformity, pain, or other condition of human beings;
    - (B) the suggestion, recommendation, or prescription or administration of any form of treatment, without limitation;
    - (C) the performing of any kind of surgical operation upon a human being, including tattooing, except for tattooing (as defined in IC 35-42-2-7), in which human tissue is cut, burned, or vaporized by the use of any mechanical means, laser, or ionizing radiation, or the penetration of the skin or body orifice by any means, for the intended palliation, relief, or cure; or
    - (D) the prevention of any physical, mental, or functional ailment or defect of any person.
  - (2) The maintenance of an office or a place of business for the reception, examination, or treatment of persons suffering from disease, ailment, defect, injury, infirmity, deformity, pain, or other conditions of body or mind.
  - (3) Attaching the designation "doctor of medicine", "M.D.", "doctor of osteopathy", "D.O.", "osteopathic medical physician", "physician", "surgeon", or "physician and surgeon", either alone or in connection with other words, or any other words or abbreviations to a name, indicating or inducing others to believe that the person is engaged in the practice of medicine or osteopathic medicine (as defined in this section).
  - (4) Providing diagnostic or treatment services to a person in Indiana when the diagnostic or treatment services:
    - (A) are transmitted through electronic communications; and
    - (B) are on a regular, routine, and nonepisodic basis or under an oral or written agreement to regularly provide medical services.

In addition to the exceptions described in section 2 of this chapter, a nonresident physician who is located outside Indiana does not practice medicine or osteopathy in Indiana by providing a second opinion to a licensee or diagnostic or treatment services to a patient in Indiana following medical care originally provided to the patient while outside Indiana.

(b) "Board" refers to the medical licensing board of Indiana.

(c) "Diagnose or diagnosis" means to examine a patient, parts of a patient's body, substances taken or removed from a patient's body, or materials produced by a patient's body to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is a physician and is so examining a patient. It is not necessary that the examination be made in the presence of the patient; it may be made on information supplied either directly or indirectly by the patient.

(d) "Drug or medicine" means any medicine, compound, or chemical or biological preparation intended for internal or external use of humans,

and all substances intended to be used for the diagnosis, cure, mitigation, or prevention of diseases or abnormalities of humans, which are recognized in the latest editions published of the United States Pharmacopoeia or National Formulary, or otherwise established as a drug or medicine.

(e) "Licensee" means any individual holding a valid unlimited license issued by the board under this article.

(f) "Prescribe or prescription" means to direct, order, or designate the use of or manner of using a drug, medicine, or treatment, by spoken or written words or other means.

(g) "Physician" means any person who holds the degree of doctor of medicine or doctor of osteopathy or its equivalent and who holds a valid unlimited license to practice medicine or osteopathic medicine in Indiana.

(h) "Medical school" means a nationally accredited college of medicine or of osteopathic medicine approved by the board.

(i) "Physician assistant" means an individual who:

- (1) is supervised by a physician;
- (2) graduated from a physician assistant program accredited by an accrediting agency (as defined in IC 25-27.5-2-4.5);
- (3) passed the examination administered by the National Commission on Certification of Physician Assistants (NCCPA) and maintains certification; and
- (4) has been licensed by the physician assistant committee under IC 25-27.5.

(j) "Agency" refers to the Indiana professional licensing agency under IC 25-1-5.

*As added by Acts 1978, P.L.8, SEC.13. Amended by Acts 1981, P.L.222, SEC.151; P.L.247-1985, SEC.1; P.L.169-1985, SEC.62; P.L.217-1993, SEC.2; P.L.180-1996, SEC.1; P.L.181-1997, SEC.1; P.L.1-2006, SEC.444; P.L.90-2007, SEC.3.*

IC 25-22.5-1-1.2 Additional definitions

Sec. 1.2. As used in this article:

"Nursing school" includes a hospital nursing school, a nursing program, and a nursing department of a postsecondary educational institution. This shall include two (2), three (3), and four (4) year programs of nursing education.

"Shortage area" is an area in which there is a less than adequate supply of physicians or nurses relative to the need for nursing or physician services.

*As added by Acts 1981, P.L.227, SEC.1. Amended by P.L.247-1985, SEC.2; P.L.2-2007, SEC.327.*

IC 25-22.5-1-2 Exclusions

Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

- (1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.
- (2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.
- (3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):
  - (A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or

institutions licensed or legally authorized by this state to provide health care or professional services as:

- (A) a physician;
- (B) a psychiatric hospital;
- (C) a hospital;
- (D) a health maintenance organization or limited service health maintenance organization;
- (E) a health facility;
- (F) a dentist;
- (G) a registered or licensed practical nurse;
- (H) a midwife;
- (I) an optometrist;
- (J) a podiatrist;
- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.1.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and
- (2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

*(Formerly: Acts 1975, P.L. 271, SEC. 1.) As amended by Acts 1977, P.L. 273, SEC. 2; P.L. 244-1985, SEC. 2; P.L. 149-1987, SEC. 50; P.L. 156-1988, SEC. 1; P.L. 237-1989, SEC. 1; P.L. 1-1990, SEC. 253; P.L. 2-1992, SEC. 776; P.L. 2-1993, SEC. 141; P.L. 227-1993, SEC. 10; P.L. 227-1995, SEC. 1; P.L. 1-1998, SEC. 132; P.L. 44-1998, SEC. 1; P.L. 156-2001, SEC. 6; P.L. 255-2001, SEC. 17; P.L. 2-2003, SEC. 65; P.L. 205-2003, SEC. 37; P.L. 97-2004, SEC. 93; P.L. 212-2005, SEC. 20; P.L. 141-2006, SEC. 106; P.L. 90-2007, SEC. 4.*

#### **IC 25-22.5-1-2.1 Experimental or nonconventional treatment; protocols for treatment**

Sec. 2.1. (a) An individual who consents under IC 34-18-12 may receive any experimental or nonconventional medical treatment if:

- (1) a licensed physician has personally examined the individual and agrees to treat the individual;
- (2) there is no reasonable basis to conclude that the medical treatment, when administered as directed, poses an unreasonable

and significant risk of danger to the individual receiving the medical treatment; and

(3) the physician has provided the individual with a written statement and an oral explanation of the medical treatment that the individual has acknowledged by the individual's signature or the signature of the individual's legal representative and that discloses the following:

(A) That the medical treatment is experimental or nonconventional.

(B) That the drug or medical device has not been approved by the United States Food and Drug Administration for any indication.

(C) The material risks generally recognized by a reasonably prudent physician of the medical treatment's side effects.

(b) If the medical treatment is to be provided on an inpatient or outpatient basis at a hospital licensed under IC 16-21, then that type of treatment must have been approved by the governing board of the hospital or by a committee of the hospital authorized by the governing board to approve the types of experimental or nonconventional medical treatments that may be provided at the hospital on an inpatient or outpatient basis.

(c) The medical licensing board shall develop protocols for medical treatments that are provided in a setting other than the inpatient or outpatient hospital setting specified in subsection (b). A physician who fails to comply with a protocol developed under this subsection shall be subject to discipline by the medical licensing board.

(d) This section does not require any person or organization to provide an individual with access to a medical treatment not otherwise commercially available to that individual.

(e) This section does not require:

(1) an insurer;

(2) a fraternal benefit society;

(3) a nonprofit corporation;

(4) a health maintenance organization (as defined in IC 27-13-1-19);

(5) a preferred provider arrangement under IC 27-8-11; or

(6) a limited service health maintenance organization (as defined in IC 27-13-34-4);

to provide coverage or make payment beyond the terms and conditions of the contract for medical treatment authorized under this section.

*As added by P.L.44-1998, SEC.2. Amended by P.L.49-1999, SEC.1.*

## INDIANA CODE § 25-22.5-2

### Chapter 2. Creation of Medical Licensing Board

#### IC 25-22.5-2-1 Creation and membership

Sec. 1. The medical licensing board of Indiana is created. It shall consist of seven (7) members, not more than four (4) of whom shall be members of the same political party. The members shall be appointed by the governor, and all vacancies occurring on the board shall be filled by the governor. The membership of the board shall consist of the following:

(1) Five (5) reputable physicians who:

(A) are graduates of a medical school;

(B) hold the degree of doctor of medicine or its equivalent; and

(C) hold valid unlimited licenses to practice medicine in Indiana;

shall serve for terms of four (4) years each.

(2) One (1) reputable osteopathic physician who:

(A) is a graduate of an accredited osteopathic medical school;

(B) holds the degree of doctor of osteopathy or its equivalent; and

(C) holds a valid unlimited license to practice osteopathic medicine in Indiana;

shall serve for a term of four (4) years.

(3) One (1) member to serve a term of four (4) years who:

(A) will represent the general public;

(B) is a resident of this state; and

(C) is in no way associated with the medical profession other than as a consumer.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.152; P.L.247-1985, SEC.3.*

#### IC 25-22.5-2-2 Meetings and election of officers; quorum

Sec. 2. The board shall have regular meetings called upon the request of the president or a majority of the board for the transaction of business as may properly come before it under this article. At the first meeting of the board in each calendar year, the board shall organize by the election of a president and any other officers considered necessary by the board. Four (4) members of the board constitute a quorum. A majority of the quorum may transact business.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.4; P.L.152-1988, SEC.14.*

#### IC 25-22.5-2-3 Per diem and expenses

Sec. 3. Per Diem and Expenses. For their services, the members shall receive the per diem as is generally paid to similar boards and agencies of the state, and the traveling expenses necessarily incurred in their attendance upon the business of the board.

*(Formerly: Acts 1975, P.L.271, SEC.1.)*

#### IC 25-22.5-2-4 Record keeping

Sec. 4. The agency shall keep a record of all licenses, permits, and applications for licensure or permit. This record must contain all the facts set forth in the application, including the action of the board thereon.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.153; P.L.247-1985, SEC.5; P.L.1-2006, SEC.445.*

#### IC 25-22.5-2-5 Registration and penalty fees; funds; disposition; expenses of board

Sec. 5. The funds obtained from registration and penalty fees shall, upon receipt thereof, be accounted for and paid over by the agency to the treasurer of state and be placed in the general fund of the state. The expenses of the board shall be paid from the general fund upon appropriation being made therefor in the manner required by law for the making of such appropriations. The amount to be expended by the board shall not exceed the amount collected by the board from all sources.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.6; P.L.1-2006, SEC.446.*

#### IC 25-22.5-2-6 Repealed

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

#### IC 25-22.5-2-7 Powers and duties

Sec. 7. (a) The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of its official duties.

(3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.

- (4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.
- (5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.
- (6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.
- (7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.
- (8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.
- (9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.
- (10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.
- (b) The board may adopt rules that establish:
- (1) certification requirements for child death pathologists;
  - (2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and
  - (3) a process to certify a qualified child death pathologist.
- (Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.154; P.L.247-1985, SEC.7; P.L.177-1997, SEC.2; P.L.18-2005, SEC.1; P.L.1-2006, SEC.447; P.L.225-2007, SEC.3.*

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## INDIANA CODE § 25-22.5-3

### Chapter 3. Licensure Requirements

#### IC 25-22.5-3-1 Minimum requirements

Sec. 1. (a) The minimum requirements for all applicants for an unlimited license to practice medicine or osteopathic medicine in Indiana must include but are not limited to the requirements prescribed by this section.

(b) The applicant must not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently.

(c) The applicant shall possess the degree of doctor of medicine or doctor of osteopathy or its equivalent from a medical school which was approved by the board as of the time the degree was conferred.

(d) The applicant shall have successfully passed the examination for licensure or shall have satisfied the requirements for licensure by endorsement as prescribed by the board.

(e) The applicant shall be physically and mentally capable of, and professionally competent to, safely engage in the practice of medicine or osteopathic medicine as determined by the board and shall submit:

- (1) to an examination; or
- (2) additional evidence to the board;

if considered necessary by the board to determine such capability. In making that determination, the board may consider any malpractice settlements or judgments against the applicant.

(f) The applicant shall not have had disciplinary action taken against the applicant or the applicant's license by the board or by the licensing agency of any other state or jurisdiction by reasons of the applicant's inability to safely practice medicine or osteopathic medicine and those reasons are still valid in the opinion of the board.

(g) The applicant shall have submitted a complete transcript of his educational records, grades, and diploma from his medical school with an English translation thereof.

(h) The applicant shall, at the board's discretion, make a personal appearance before it.

(i) The applicant shall have completed one (1) year of postgraduate training in a hospital or institution located in the United States, its possessions, or Canada that meets standards set by the board under IC 25-22.5-2-7.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.155; Acts 1982, P.L.113, SEC.56; P.L.247-1985, SEC.8; P.L.149-1987, SEC.51.*

#### IC 25-22.5-3-2 Foreign medical graduates

Sec. 2. (a) In addition to meeting all the requirements of section 1 of this chapter except subsection (i), an applicant for licensure who:

(1) has been graduated from a medical school outside the United States, its possessions, or Canada; and

(2) submits evidence satisfactory to the board that prior to passing the examination the applicant has successfully completed a minimum of at least two (2) years of postgraduate training in a hospital or an institution located in the United States or Canada which meets the standards approved by the nationally recognized medical or osteopathic accrediting bodies in the United States, for the purpose of graduate training which is approved by the board; is entitled to receive an unlimited license to practice medicine or osteopathic medicine.

(b) Notwithstanding subsection (a), the board may waive the second year of postgraduate training in the United States or Canada required of a graduate of a foreign medical school.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.9; P.L.156-1986, SEC.1; P.L.242-1995, SEC.1.*

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## INDIANA CODE § 25-22.5-4

### Chapter 4. Examinations

#### IC 25-22.5-4-1 Guidelines

Sec. 1. (a) The board shall:

(1) adopt rules concerning examinations;

(2) prepare and give, or approve the preparation and giving of, an examination which covers those general subjects and topics, a knowledge of which is commonly and generally required, in the opinion of the board, to practice medicine or osteopathic medicine in Indiana; and

(3) permit a student of an accredited school of medicine to take the examination for licensure if:

- (A) the student submits an application to the board to take the examination before the application deadline set by the board; and
- (B) the dean of the school certifies that the student is expected to graduate before the results of the examination are published by the board.

(b) Examinations must be:

- (1) given in a way that persons grading the papers will have no knowledge of the identity of an individual being examined; and
- (2) conducted at least semiannually, if there are applicants.

(c) An applicant must achieve a passing score on the examination to qualify for licensure.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1982, P.L.113, SEC.57; P.L.247-1985, SEC.10; P.L.149-1987, SEC.52.*

#### IC 25-22.5-4-2 Procedure

Sec. 2. If any applicant fails to satisfactorily pass the examination for licensure, the applicant is entitled to take not more than two (2) subsequent examinations at other examination periods within nineteen (19) months from the date of the first examination upon the payment of



an additional examination fee each time. The board may establish additional requirements under IC 25-22.5-2-7 for those applicants who, after having failed the examination three (3) or more times, wish to take another examination.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.11.*

## **INDIANA CODE § 25-22.5-5**

### **Chapter 5. Licenses and Permits**

#### **IC 25-22.5-5-1 Licenses with examination**

Sec. 1. Licenses with Examination. Any applicant who successfully passes the examination provided in chapter 4, and who meets all of the requirements of chapter 3, is entitled to be registered as a physician and to receive an unlimited license to practice medicine or osteopathic medicine.

*(Formerly: Acts 1975, P.L.271, SEC.1.)*

#### **IC 25-22.5-5-2 Licenses without examination**

Sec. 2. (a) The board in its discretion may register as a physician and may issue by endorsement an unlimited license to practice medicine or osteopathic medicine to any applicant who has:

- (1) complied with the minimum requirements of IC 25-22.5-3; and
- (2) passed an examination:
  - (A) for licensure in another state or territory of the United States, or Canada; or
  - (B) given by a recognized certifying agency approved by the board;

if that examination was, in the opinion of the board, equivalent in every respect to Indiana's examination at the time it was taken.

(b) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure under this section if:

- (1) the applicant has been disciplined by an administrative agency in another state or jurisdiction; and
- (2) the board determines that the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to practice competently as a physician in Indiana.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.149-1987, SEC.53; P.L.33-1993, SEC.28.*

#### **IC 25-22.5-5-2.5 Unlimited and probationary licenses; refusal to license; removal of limitation**

Sec. 2.5. (a) The board may:

- (1) refuse to issue a license;
- (2) issue an unlimited license; or
- (3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-1-9-12.

(b) Before making a determination under subsection (a), the board may require the applicant to engage in full-scale assessments, formal training programs, supervised practice arrangements, formal testing, or other proof of competence as provided under section 2.7 of this chapter.

(c) When issuing a probationary license under this section, the board may require the individual holding the license to perform any of the following acts as a condition for the issuance of a probationary license:

- (1) Submit a regular report to the board concerning matters that are the basis of probation.
- (2) Limit the practice of the individual to the areas prescribed by the board.
- (3) Continue or renew the individual's professional education.

(4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of the individual.

(5) Engage in community restitution or service without compensation for a number of hours specified by the board.

(6) Any combination of these conditions.

(d) If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection (c).

*As added by P.L.152-1988, SEC.15. Amended by P.L.33-1993, SEC.29; P.L.32-2000, SEC.13; P.L.105-2008, SEC.40.*

#### **IC 25-22.5-5-2.7**

Sec. 2.7. (a) The board may issue a provisional license to an applicant who:

- (1) has not practiced medicine or has not maintained continued competency for at least two (2) years immediately preceding the filing of an application for an initial license;
- (2) has applied for reinstatement of a license under IC 25-1-8-6 that has been lapsed for at least three (3) years; or
- (3) has submitted a request, petition, motion, or application to reactivate an inactive license previously issued by the board.

(b) For an applicant to qualify for a provisional license under subsection (a), the board must find the following:

- (1) The applicant's practice is deficient in one (1) or more areas.
- (2) The nature of the applicant's deficiency is such that it does not constitute a violation of the practice act, other than a de minimis violation, as determined by the board.
- (3) The nature of the applicant's identified practice deficiency is such that it may be monitored until resolved to the satisfaction of the board.
- (4) The applicant's practice deficiency did not result in death, serious harm, or other serious outcome for a patient or patients.
- (5) The applicant's practice deficiency did not represent an intentional or willful commission or omission of an act that constitutes a violation of IC 25-1-9-4, IC 25-22.5, or the rules of the board.
- (6) The applicant's practice deficiency did not involve sexual misconduct.

(c) As a condition for an applicant to hold a provisional license, the board may require full-scale assessments, engagement in formal training programs, supervised practice arrangements, formal testing, or other proof of competence.

(d) An applicant under this section shall develop an individualized practice reentry program subject to the approval of the board.

(e) The duration of a provisional license shall be determined by the board and reviewed at least annually by the board.

(f) When an applicant has demonstrated to the board that the applicant has satisfactorily met the terms of the individualized practice reentry program, the applicant shall be released from terms of the provisional license and is entitled to hold an unlimited license under IC 25-22.5-3-1.

(g) A provisional license is a nonrestricted license, and the issuance of a provisional license issued under this section may not be construed as a disciplinary action taken by the board.

(h) The board may take disciplinary action against an applicant who holds a provisional license if, after a hearing, the board finds any of the following:

- (1) Failure to comply with any term of the provisional license.
- (2) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to make satisfactory progress or successfully complete the requirements of the provisional license.
- (3) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to

incorporate learned knowledge and skills into the holder's practice or has continued to demonstrate the same practice deficiency that led to the issuance of the provisional license.

(4) A violation of IC 25-1-9.

(i) The holder of a provisional license may petition the board for modification, withdrawal, or retirement of the provisional license.  
*As added by P.L. 105-2008, SEC. 41.*

#### **IC 25-22.5-5-3 Waiver of requirements**

Sec. 3. The board, in certain exceptional instances, may waive for limited licenses, temporary medical permits, or final licensure any of the provisions of this article, including fee requirements, if a complete evaluation by the board of the applicant's previous training, education, and practice determines them to equal or exceed the requirements of this article.

*(Formerly: Acts 1975, P.L. 271, SEC. 1.) As amended by P.L. 247-1985, SEC. 12.*

#### **IC 25-22.5-5-4 Temporary medical permits**

Sec. 4. (a) The board may authorize the agency to issue temporary medical permits for the practice of medicine or osteopathic medicine. When a temporary medical permit is issued, it is subject to any termination date specified by the board. A temporary medical permit may be issued to any person who:

- (1) has completed the academic requirements for the degree of doctor of medicine or doctor of osteopathy from a medical school approved by the board; and
- (2) desires to obtain postgraduate medical education or training in a medical education institution or hospital located in Indiana which has standards for postgraduate medical education and training satisfactory to the board;

is required to obtain a temporary medical permit unless the graduate possesses an unlimited license to practice medicine or osteopathic medicine in Indiana. Application for the permit must be made to the board subject to this article. A temporary medical permit issued to a person under this subsection for purposes of postgraduate training is valid for a period of one (1) year and may be renewed for additional one (1) year periods at the discretion of the board.

(b) A medical educational institution located in Indiana which has standards satisfactory to the board may, in the board's discretion, secure from it a permit for a person in the active practice of medicine outside the state of Indiana or the United States, but who is not licensed in Indiana, to teach medicine in the institution for an annually renewable period not to exceed one (1) year by filing with the board an application by the institution and the person certifying:

- (1) the person's professional qualifications;
- (2) the term of the teaching appointment;
- (3) the medical subjects to be taught; and
- (4) other information and assurances as the board may require.

If the application is approved, the person is entitled to receive a "temporary medical teaching permit" which authorizes the person to teach medicine in the applicant institution for a stated period not to exceed one (1) year. This permit must be kept in the possession of the institution and surrendered by it to the board for cancellation within thirty (30) days after the person has ceased teaching in the institution. The permit authorizes the person to practice in the institution only and, in the course of teaching, to practice those medical or osteopathic medical acts as are usually and customarily performed by a physician teaching in a medical educational institution, but does not authorize the person to practice medicine or osteopathic medicine otherwise.

(c) Any medical educational institution in this state which authorizes or permits a physician to violate this article or which itself violates this section may, in the discretion of the board, be disqualified from further receiving the benefits of this section.

(d) The board may authorize the issuance of a temporary medical permit to a person who will be taking in Indiana for the first time the examination or portion of the examination required by the board. A temporary medical permit holder under this subsection shall work under the supervision of a licensed physician, who is in good standing with the board, until the results of the examination taken by the permit holder are published by the board. If the holder of a temporary medical permit under this subsection fails the examination, the board may reissue a temporary medical permit to the holder upon conditions, and for a period of time, that the board considers appropriate.

(e) A person who holds a valid license to practice medicine or osteopathic medicine in the United States, its possessions, or Canada, and who is seeking licensure by endorsement, may be issued a temporary medical permit by the agency upon the authorization of the board. A temporary medical permit issued under this subsection is valid for ninety (90) days or for a period considered appropriate by the board.

(f) A person who is licensed to practice medicine or osteopathic medicine by any board or licensing agency of another state or jurisdiction, and who meets the requirements established by the board under IC 25-22.5-2-7, may be issued a temporary medical permit limited by terms and conditions considered appropriate by the board. A temporary medical permit issued under this subsection is valid for a nonrenewable period of no more than thirty (30) days.

*(Formerly: Acts 1975, P.L. 271, SEC. 1.) As amended by P.L. 247-1985, SEC. 13; P.L. 1-2006, SEC. 448.*

#### **IC 25-22.5-5-4.5 Authorization for issuing temporary fellowship permits; requirements; application; expiration of permit; possession of permit; denying permit; affidavit**

Sec. 4.5. (a) The board may authorize the agency to issue temporary fellowship permits for the practice of medicine. A temporary fellowship is subject to any termination date specified by the board.

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

- (1) applies in the form and manner required by the board;
- (2) pays a fee set by the board;
- (3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;
- (4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;
- (5) has been accepted into a postgraduate medical fellowship training program that:
  - (A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);
  - (B) has a training site located in Indiana; and
  - (C) has standards for postgraduate medical education and training satisfactory to the board;
- (6) provides the board with documentation of the areas of medical practice for which the training is sought;
- (7) provides the board with at least two (2) letters of reference documenting the individual's character; and
- (8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.

(c) Applications for the temporary fellowship permit for graduates of foreign medical schools must be made to the board subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of the fellowship training institution and surrendered by it to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

- (1) violated; or
- (2) authorized or permitted a physician to violate;

this section.

(i) A person issued a temporary fellowship permit under this section must file an affidavit that:

- (1) is signed by a physician licensed in Indiana;
- (2) includes the license number of the signing physician;
- (3) attests that the physician will monitor the work of the physician holding the temporary fellowship permit; and
- (4) is notarized.

The affidavit must be filed with the agency before the person holding the temporary fellowship permit may provide medical services.

(j) This section expires July 1, 2008.

*As added by P.L.184-2003, SEC.13. Amended by P.L.97-2004, SEC.94; P.L.1-2006, SEC.449.*

#### **IC 25-22.5-5-5 Repealed**

*(Repealed by P.L.185-1993, SEC.15.)*

#### **IC 25-22.5-5-6 Eye enucleators; corneal excision technicians; registration; training programs**

Sec. 6. (a) The board shall register as an eye enucleator an individual who qualifies for registration under rules adopted by the board under IC 25-22.5-2-7. An applicant for registration as an eye enucleator must submit evidence that the applicant has successfully completed a training program in the enucleation of eyes approved by the board. To be approved, a training program must:

- (1) be taught by one (1) or more surgeons or physicians;
- (2) include instruction and practice in:
  - (A) anatomy and physiology of the eye;
  - (B) the maintenance of a sterile field during the removal of an eye; and
  - (C) the use of appropriate instruments and sterile procedures for removing the eye; and
- (3) comply with rules adopted by the board under IC 25-22.5-2-7.

Registration of an eye enucleator under this section does not qualify the eye enucleator to remove corneas or corneal tissue.

(b) The board shall register as a corneal excision technician a person who qualifies for registration under rules adopted by the board under IC 25-22.5-2-7. An applicant for registration as a corneal excision technician must submit evidence that the applicant has successfully completed a training program in corneal excision approved by the board. To be approved, a training program must:

- (1) be taught by one (1) or more surgeons or physicians;
- (2) include instruction and practice in:
  - (A) the anatomy and physiology of the eye;
  - (B) maintenance of a sterile field during the removal of a cornea, an eye, or part of an eye; and
  - (C) the use of appropriate instruments and sterile procedures for removing a cornea, an eye, or part of an eye; and
- (3) comply with rules adopted by the board under IC 25-22.5-2-7.

A corneal excision technician registered under this section may remove an eye, part of an eye, a cornea, and corneal tissue.

(c) The board may revoke a registration issued under this section upon a showing of good cause for revocation.

(d) The board shall adopt rules under IC 25-22.5-2-7 to implement this section.

*As added by P.L.36-1993, SEC.3.*

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### **INDIANA CODE § 25-22.5-6**

#### **Chapter 6. Discipline; Retirement of Licenses**

##### **IC 25-22.5-6-1 Retirement and surrender; inactive status**

Sec. 1. (a) Any physician licensed to practice medicine or osteopathic medicine in this state who intends to retire from practice shall notify the board in writing of the physician's intention to retire. Upon receipt of this notice, the board shall record the fact that the physician is retired and excuse the person from further payment of registration fees. If any physician retires the physician's license to practice medicine or osteopathic medicine in this state, reinstatement of the license may be considered by the board upon written request. The board may impose any conditions it considers appropriate to the retirement or to the reinstatement of a retired license. If any disciplinary proceedings under this chapter are pending against a physician, the physician may not surrender or retire the physician's license to practice without the written approval of the board.

(b) Any physician licensed to practice medicine or osteopathic medicine in this state who intends to become inactive in the practice of medicine shall notify the board in writing that:

- (1) the physician will not maintain an office or practice; and
- (2) if the physician does render a service that constitutes the practice of medicine, the physician will not charge a fee for that service.

The board shall then classify the physician's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

(c) If a physician holding an inactive license intends to maintain an office or practice or charge a fee for the physician's medical services, the physician shall notify the board of the intent to reactivate a license to practice medicine or osteopathy. As a condition of reactivation, the board may require the physician to appear before the board. This personal appearance shall be to establish the physician's work history if the physician's license has been inactive for more than four (4) years and the physician cannot verify active practice history in another jurisdiction during the period in which the physician's Indiana license has been under inactive status. Upon:

- (1) notification;
  - (2) receipt of the regular registration fee for a physician's license, less the amount paid for the current inactive license; and
  - (3) either:
    - (A) verification of active licensure in another jurisdiction; or
    - (B) completion of other reasonable requirements imposed by the board, after the physician's work history has been established;
- the board shall reinstate that physician's license.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1979, P.L.246, SEC.1; P.L.247-1985, SEC.15; P.L.157-2006, SEC.60.*

##### **IC 25-22.5-6-2 Repealed**

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

##### **IC 25-22.5-6-2.1 Repealed**

*(Repealed by P.L.152-1988, SEC.30.)*

### **IC 25-22.5-6-3 Immunity from civil liability**

Sec. 3. The executive director and staff of the agency, counsel, investigators, hearing officers, and the board members are immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties.

(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1977, P.L.172, SEC.28; Acts 1981, P.L.222, SEC.157; P.L.247-1985, SEC.17; P.L.1-2006, SEC.450.

### **IC 25-22.5-6-4 Injunctions**

Sec. 4. Injunctions. In cases where the continued practice of medicine by an accused is considered harmful to the public or himself, the board may sue to enjoin the accused from practicing medicine or osteopathic medicine until the hearing, provided in section 3 of this chapter, is completed and a decision rendered.

(Formerly: Acts 1975, P.L.271, SEC.1.)

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## **INDIANA CODE § 25-22.5-7**

### **Chapter 7. Registration Fees**

#### **IC 25-22.5-7-1 Expiration of licenses; renewal fee; reinstatement of invalid licenses; rules**

Sec. 1. (a) A license issued under this article expires biennially on the date established by the licensing agency under IC 25-1-5-4. On or before the date established by the licensing agency, an applicant for renewal shall pay the biennial renewal fee set by the board under IC 25-1-8-2.

(b) If the holder of a license does not renew the license on or before the date established by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) A license that becomes invalid under subsection (b) may be reinstated by the board not later than three (3) years after the invalidation if the holder of the invalid license meets the requirements for reinstatement under IC 25-1-8-6(c).

(d) If a license that becomes invalid under this section is not reinstated by the board not later than three (3) years after its invalidation, the holder of the invalid license must meet the requirements for reinstatement established by the board under IC 25-1-8-6(d).

(e) A licensee whose license is reinstated under subsection (d) may be issued a provisional license under IC 25-22.5-5-2.7.

(f) The board may adopt rules under IC 25-22.5-2-7 establishing requirements for the reinstatement of a lapsed license.

(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1979, P.L.246, SEC.3; P.L.247-1985, SEC.18; P.L.149-1987, SEC.55; P.L.105-2008, SEC.42.

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## **INDIANA CODE § 25-22.5-8**

### **Chapter 8. Penalties**

#### **IC 25-22.5-8-1 Unlawful practice**

Sec. 1. Unlawful Practice. It is unlawful for any person to practice medicine or osteopathic medicine in this state without holding a license or permit to do so, as provided in this article.

(Formerly: Acts 1975, P.L.271, SEC.1.)

#### **IC 25-22.5-8-2 Offenses**

Sec. 2. (a) A person who violates this article by unlawfully practicing medicine or osteopathic medicine commits a Class C felony.

(b) A person who practices midwifery without the license required under this article commits a Class D felony.

(c) A person who acts as a physician assistant without the license required under IC 25-27.5 commits a Class D felony.

(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2541; P.L.247-1985, SEC.19; P.L.90-2007, SEC.5.

### **IC 25-22.5-8-3 Violations; temporary medical permits**

Sec. 3. A person who violates this article relating to temporary medical permits, if the violation does not involve the unlawful practice of medicine or osteopathic medicine, commits a Class C misdemeanor.

(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2542; P.L.247-1985, SEC.20.

### **IC 25-22.5-8-4 Injunctions**

Sec. 4. Injunctions. The attorney general, prosecuting attorney, the board or any citizen of any county where any person engages in the practice of medicine or osteopathic medicine without a license or a permit to do so, may, according to the laws of Indiana governing injunctions, maintain an action in the name of the state of Indiana to enjoin the person from engaging in the practice of medicine or osteopathic medicine. In charging any person in an affidavit, information or indictment, with a violation of this law by practicing medicine or osteopathic medicine without a license or permit, it is sufficient to charge that he did, upon a certain day and in a certain county, engage in the unlawful practice of medicine or osteopathic medicine and that he did not have any license or permit to do so. No further or more particular fact need be averred concerning the matter.

(Formerly: Acts 1975, P.L.271, SEC.1.)

### **IC 25-22.5-8-5 Revocation of physician license for participation in cloning**

Sec. 5. (a) As used in this section, "cloning" has the meaning set forth in IC 16-18-2-56.5.

(b) Notwithstanding IC 25-1-9, the board shall revoke the license of a physician if, after appropriate notice and an opportunity for a hearing, the attorney general proves by a preponderance of the evidence that the physician knowingly participated in cloning or attempted cloning.

As added by P.L.126-2005, SEC.8.

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## **INDIANA CODE § 25-22.5-9**

(Repealed by P.L.199-1987, SEC.2.)

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## **INDIANA CODE § 25-22.5-10**

### **Chapter 10. Osteopathic Residency Training and Certification**

#### **IC 25-22.5-10-1 Residency training and board certification required by health provider or insurer**

Sec. 1. If:

- (1) a hospital;
- (2) a health maintenance organization issued a certificate of authority under IC 27-13;
- (3) a preferred provider organization licensed under IC 27-8-11;
- (4) a health insurance company; or
- (5) any other similarly licensed entity;

requires a physician to be residency trained, board certified, or eligible for certification in a medical specialty, it shall include residency training or certification approved by a national association founded in 1897 that accredits residency training programs and certifying boards for osteopathic physicians as criteria that satisfy the requirement.

As added by P.L.182-1997, SEC.1.

**Chapter 11. Physician Referral to Certain Health Care Entities**

**IC 25-22.5-11-1 "Financial interest"**

Sec. 1. (a) As used in this chapter, "financial interest" means an ownership or investment interest through equity, debt, or other means. The term includes an ownership or investment interest in an entity that holds:

- (1) directly; or
- (2) through a subsidiary;

an ownership or investment interest in a health care entity.

(b) The term does not include the following:

- (1) Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) that may be purchased on terms generally available to the public and that are:

(A) securities:

- (i) listed on the New York Stock Exchange, the American Stock Exchange, any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis; or
- (ii) traded under the National Association of Securities Dealers, Inc. Automated Quotations System; and

(B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three (3) fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).

- (2) Ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, if such company had, at the end of the company's most recent fiscal year, or on average during the previous three (3) fiscal years, total assets exceeding seventy-five million dollars (\$75,000,000).

*As added by P.L.217-2005, SEC.26.*

**IC 25-22.5-11-2 "Health care entity"**

Sec. 2. As used in this chapter, "health care entity" means an organization or a business that provides diagnostic, medical, or surgical services, dental treatment, or rehabilitative care.

*As added by P.L.217-2005, SEC.26.*

**IC 25-22.5-11-3 Physician requirements before referring patient to health care entity; exception**

Sec. 3. (a) Except as provided in subsection (b), a physician must do the following before referring an individual to a health care entity in which the physician has a financial interest:

- (1) Disclose in writing to the individual that the physician has a financial interest in the health care entity.
- (2) Inform the individual in writing that the individual may choose to be referred to another health care entity.

The individual shall acknowledge receipt of the notice required under this section by signing the notice. The physician shall keep a copy of the signed notice.

(b) Subsection (a) does not apply if a delay in treatment caused by compliance with the requirements of subsection (a) would reasonably be expected by the referring physician to result in serious:

- (1) jeopardy to the individual's health;
- (2) impairment to the individual's bodily functions; or
- (3) dysfunction of a bodily organ or part of the individual.

*As added by P.L.217-2005, SEC.26.*

**IC 25-22.5-11-4 Compliance as condition for physician licensure**

Sec. 4. Compliance with this chapter is a condition of licensure under this article.

*As added by P.L.217-2005, SEC.26.*

**IC 25-22.5-11-5 Intent not to conflict with federal law**

Sec. 5. This chapter is not intended to conflict with 42 U.S.C. 1395nn or 42 U.S.C. 1396b(s).

*As added by P.L.217-2005, SEC.26.*

**INDIANA CODE § 25-22.5-12**

**Chapter 12. Residency Pilot Program for Qualified International Medical School Graduates**

**IC 25-22.5-12-1 "Graduate" defined**

Sec. 1. As used in this chapter, "graduate" means a qualified international medical school graduate.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-2 "Resident" defined**

Sec. 2. As used in this chapter, "resident" means a graduate who has been accepted in the residency pilot program under this chapter.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-3 Residency pilot program established**

Sec. 3. The board shall work with primary care residency programs, limited to family medicine, pediatrics, and internal medicine residency programs, to develop a pilot program for a period of seven (7) academic years to better identify, evaluate, and prepare qualified graduates for future practice in Indiana.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-4 Eligible graduates**

Sec. 4. The board shall allow family medicine, pediatrics, and internal medicine residency programs in Indiana that elect to participate in the residency pilot program to accept graduates from medical schools that:

- (1) are not on the board's list of approved medical schools; and
- (2) are not on the list of schools disapproved for postgraduate medical education training.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-5 Application process**

Sec. 5. The board shall develop an application process for each approved residency program's participation in the residency pilot program.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-6 Disapproved medical schools; list**

Sec. 6. The list of disapproved medical schools must be updated by August 1 of each year to the best ability of the board to exclude any medical schools that are not known to be qualified educational institutions.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-7 Request for temporary permit**

Sec. 7. The program director of a residency program that wants to participate in the residency pilot program shall submit a letter to the board requesting that the accepted residency candidate receive a temporary permit for residency training. A representative of the residency program must appear with the candidate for a hearing of the board.

*As added by P.L.157-2006, SEC.61. Amended by P.L.1-2007, SEC.169.*

**IC 25-22.5-12-8 Temporary permit duration**

Sec. 8. A temporary permit to participate in residency training may be:

- (1) issued to a graduate for one (1) year; and

(2) renewed for two (2) additional one (1) year periods; until completion of the residency program. The board may require the graduate to appear before the board.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-9 Eligible candidates**

Sec. 9. A candidate for the residency program must be certified by the Education Commission for Foreign Medical Graduates (ECFMG) to participate in the residency pilot program.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-10 Pilot program director's report**

Sec. 10. The director of a participating residency pilot program shall submit a written progress report to the board within three (3) months after the beginning of training of a resident to verify that the resident is providing the quality of medical care to patients expected at the level of medical experience and training of the resident.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-11 Dismissal of resident; notification of board**

Sec. 11. The residency program director shall promptly inform the board in writing if a pilot program resident is:  
(1) dismissed for failure to meet the professional expectations of the residency program; or  
(2) incapable of competent medical practice.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-12 Annual progress report**

Sec. 12. The residency program director shall submit a report concerning the progress of each resident to the board at the completion of the first and second years of the resident's training recommending renewal of the temporary medical permit for one (1) additional year if the resident's performance is satisfactory.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-13 Completion of pilot program; additional practice requirements; failure to complete program**

Sec. 13. (a) Upon the resident's completion of the three (3) year training program, the residency program director may be required to appear before the board to:  
(1) verify the competency of the resident; and  
(2) recommend that the candidate be issued a license to enable the candidate to practice medicine in Indiana.  
If the resident was granted a temporary permit under the residency pilot program, a graduate participating in the program may not be issued a permanent license until the graduate completes the three (3) years of pilot program residency training and completes two (2) years of practice in Indiana to complete the pilot program requirements. The type of license the graduating resident obtains for the two (2) years of practice after residency shall be determined by the board. The board may defer the practice requirement if the resident requests a delay to participate in an Accreditation Council on Graduate Medical Education (ACGME) accredited fellowship program that enhances the practice of primary care. The candidate must appear before the board for permanent license approval.  
(b) Failure to complete the residency pilot program for reasons including:  
(1) negligence;  
(2) incompetency; or  
(3) issues of professionalism;  
is an adverse event reportable to medical licensing boards in other states. Issues not related to performance are not reportable events.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-14 Successful candidates**

Sec. 14. International medical school graduates who have successfully completed the residency pilot program and have met all requirements of this chapter:  
(1) shall be given equal standing for licensure with other international medical school graduates who have graduated from approved medical schools; and  
(2) must meet all other licensure requirements under IC 25-22.5-3-1.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-15 Data collection by board**

Sec. 15. The board shall collect information and data during the residency pilot program concerning the:  
(1) successes of;  
(2) failures of;  
(3) difficulties encountered in; and  
(4) number of residents involved in, entering, and graduating from; the program.  
The information must include data based on the six (6) required ACGME competencies used to evaluate all residents.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-16 Limit on number of candidates**

Sec. 16. There may not be more than two (2) graduates allowed under this pilot program for each approved primary care residency program.  
*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-17 Chapter expiration**

Sec. 17. This chapter expires December 31, 2013.  
*As added by P.L.157-2006, SEC.61.*

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INDIANA CODE § 25-2.5

ARTICLE 2.5. ACUPUNCTURISTS

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INDIANA CODE § 25-2.5-1

Chapter 1. Definitions

**IC 25-2.5-1-1 Applicability of definitions**

Sec. 1. The definitions in this chapter apply throughout this article.  
*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-1-2 "Acupuncture"**

Sec. 2. "Acupuncture" means a form of health care employing traditional and modern Oriental medical concepts, Oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques for the promotion, maintenance, and restoration of health and the prevention of disease.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-1-2.1 "Acupuncturist"**

Sec. 2.1. "Acupuncturist" means an individual to whom a license to practice acupuncture in Indiana has been issued under IC 25-2.5-2.

*As added by P.L.59-2001, SEC.1.*

**IC 25-2.5-1-2.5 "Agency"**

Sec. 2.5. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

*As added by P.L.1-2006, SEC.418.*

**IC 25-2.5-1-3 "Board"**

Sec. 3. "Board" refers to the medical licensing board.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-1-4 Repealed**

*(Repealed by P.L.1-2006, SEC.588.)*

**IC 25-2.5-1-5 "Practice of acupuncture"**

Sec. 5. "Practice of acupuncture" means the insertion of acupuncture needles, the application of moxibustion to specific areas of the human body based upon Oriental medical diagnosis as a primary mode of therapy, and other means of applying acupuncture under this chapter.

*As added by P.L.265-1999, SEC.1.*

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INDIANA CODE § 25-2.5-2

Chapter 2. License and Qualifications

**IC 25-2.5-2-1 Requirements for license**

Sec. 1. Except as provided in section 3 of this chapter, to qualify for a license under this article, an individual must satisfy the following requirements:

- (1) Complete an application for licensure in accordance with the rules adopted by the board.
- (2) Pay the fees established by the board.
- (3) Not have been convicted of a crime that has a direct bearing on the applicant's ability to practice competently as determined by the board.
- (4) Not have had disciplinary action taken against the applicant or the applicant's license by the board or by the licensing agency of another state or jurisdiction by reason of the applicant's inability to

safely practice acupuncture with the reasons for discipline still being valid as determined by the board or by a national certification agency.

(5) Show to the satisfaction of the board that the applicant has:

- (A) current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture and Oriental Medicine;
- (B) successfully completed a three (3) year postsecondary training program or acupuncture college program that:
  - (i) is accredited by;
  - (ii) is a candidate for accreditation by; or
  - (iii) meets the standards of;the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine; and
- (C) successfully completed a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-2-2 Issuance of license**

Sec. 2. Except as provided in section 4 of this chapter, the board shall issue a license to an individual who:

- (1) meets the conditions of section 1 of this chapter; and
- (2) is otherwise qualified for licensure under this article.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-2-3 Applicants licensed in other state or licensed in related fields**

Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

- (1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country to practice acupuncture;
- (2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

- (A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;
- (B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and
- (C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant is a:

- (1) chiropractor licensed under IC 25-10;
- (2) dentist licensed under IC 25-14; or
- (3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

- (1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and
- (2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).

*As added by P.L.265-1999, SEC.1. Amended by P.L.59-2001, SEC.2; P.L.105-2008, SEC.7; P.L.134-2008, SEC.17.*

#### **IC 25-2.5-2-4 Refusal to issue license**

Sec. 4. The board may refuse to issue a license to an applicant for licensure if:

- (1) the board determines during the application process that the applicant committed an act that would have subjected the applicant to disciplinary sanction under section 1(4) of this chapter if the applicant had been licensed in Indiana when the act occurred; or
- (2) the applicant has had a license revoked under IC 25-1-1.1.

*As added by P.L.265-1999, SEC.1. Amended by P.L.14-2000, SEC.56.*

#### **IC 25-2.5-2-5 Expiration and renewal of license**

Sec. 5. (a) A license issued by the board expires on the date established by the agency under IC 25-1-5-4 in each even-numbered year.

(b) To renew a license, an acupuncturist must:

- (1) pay a renewal fee not later than the expiration date of the license; and
- (2) submit proof of current active licensure in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid without further action by the board.

(d) If an individual holds a license that has been invalid for not more than three (3) years, the board shall reinstate the license if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a license expired, the individual who holds the license may seek reinstatement of the license by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

*As added by P.L.265-1999, SEC.1. Amended by P.L.1-2006, SEC.419; P.L.105-2008, SEC.8.*

#### **IC 25-2.5-2-6 Denial, suspension, or revocation of license**

Sec. 6. The board may deny, suspend, or revoke a license, require remedial education, or issue a letter of reprimand, if an applicant or licensed acupuncturist does any of the following:

- (1) Engages in false or fraudulent conduct that demonstrates an unfitness to practice acupuncture, including:
  - (A) making a misrepresentation in connection with an application for a license or an investigation by the board;
  - (B) attempting to collect fees for services that were not performed;
  - (C) false advertising, including guaranteeing that a cure will result from an acupuncture treatment; or
  - (D) dividing, or agreeing to divide, a fee for acupuncture services with another person for referring the patient.

(2) Fails to exercise proper control over the acupuncturist's practice by:

- (A) aiding an unlicensed person in practicing acupuncture;
- (B) delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform; or
- (C) insufficiently supervising unlicensed personnel working with the acupuncturist in the practice.

(3) Fails to maintain records in a proper manner by:

- (A) failing to keep written records describing the course of treatment for each patient;
- (B) refusing to provide upon request patient records that have been prepared for or paid for by the patient; or
- (C) revealing personally identifiable information about a patient, without the patient's consent, unless otherwise allowed by law.

(4) Fails to exercise proper care of a patient, including:

- (A) abandoning or neglecting a patient without making reasonable arrangements for the continuation of care; or
- (B) exercising or attempting to exercise undue influence within the relationship between the acupuncturist and the patient by making sexual advances or requests for sexual activity or by making submission to sexual conduct a condition of treatment.

(5) Displays substance abuse or mental impairment to the degree that it interferes with the ability to provide safe and effective treatment.

(6) Is convicted, pleads guilty, or pleads no contest to a crime that demonstrates an unfitness to practice acupuncture.

(7) Fails, in a negligent manner, to practice acupuncture with the level of skill recognized within the profession as acceptable under the circumstances.

(8) Violates willfully any provision of this article or rule of the board.

(9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

*As added by P.L.265-1999, SEC.1. Amended by P.L.59-2001, SEC.3.*

#### **IC 25-2.5-2-7 Auricular acupuncture**

Sec. 7. (a) This section may not be construed to prohibit licensed acupuncturists from practicing auricular acupuncture.

(b) An individual who is not an acupuncturist licensed under this article may practice auricular acupuncture for the purpose of treating alcoholism, substance abuse, or chemical dependency if the individual:

- (1) provides the board with documentation of successful completion of a board approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that meets or exceeds the standards of training set by the National Acupuncture Detoxification Association;
- (2) provides the board with documentation of successful completion of a clean needle technique course;
- (3) provides auricular acupuncture services within the context of a state, federal, or board approved alcohol, substance abuse, or chemical dependency program under the supervision of a licensed acupuncturist; and
- (4) maintains the ethical standards under this article and under rules adopted by the board.

*As added by P.L.265-1999, SEC.1.*

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## **INDIANA CODE § 25-2.5-3**

### **Chapter 3. Unlawful Practice**

#### **IC 25-2.5-3-1 Applicability of chapter**

Sec. 1. This chapter does not apply to the following:



- 
- (1) A health care professional acting within the scope of the health care professional's license, certification, or registration.
- (2) A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-3-2 Use of acupuncturist title**

Sec. 2. An individual may not use the title "licensed acupuncturist" or "acupuncturist" unless the acupuncturist is licensed under this article.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-3-3 Unlicensed practice of acupuncture**

Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

(b) If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5, the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except for acts or omissions of the physician that amount to gross negligence or willful or wanton misconduct.

*As added by P.L.265-1999, SEC.1. Amended by P.L.59-2001, SEC.4; P.L.134-2008, SEC.18.*

**IC 25-2.5-3-4 Violations**

Sec. 4. A person who knowingly or intentionally violates this article commits a Class B misdemeanor.

*As added by P.L.265-1999, SEC.1.*

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INDIANA CODE § 25-1

ARTICLE 1. GENERAL PROVISIONS

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INDIANA CODE § 25-1-1

**Chapter 1. Evidence of License Applicant's Payment of Personal Property Taxes Required**

**IC 25-1-1-1 Issuance of license; evidence of payment of personal property tax**

Sec. 1. It is unlawful for any board, officer, or person to issue any license, as defined in section 2 of this chapter, to any person who is a resident of this state, unless the applicant, at the time he applies for such license, submits, in addition to all other requirements prescribed by law, a receipt or other evidence showing that he has paid all his personal property taxes in full. "Other evidence" in the case of all licenses issued by the bureau of motor vehicles means a statement signed by the treasurer of the county in which the applicant is a resident that the applicant has paid all personal taxes assessed against him, including all delinquent personal property tax; or, if the applicant owns no personal property subject to taxation, a signed statement from the assessor of the county in which the applicant resides certifying that he has made an affidavit to the effect that he owes no delinquent personal property tax in any county in Indiana.

(Formerly: Acts 1931, c.124, s.1; Acts 1941, c.61, s.1; Acts 1943, c.124, s.1; Acts 1953, c.208, s.1.) As amended by Acts 1978, P.L.2, SEC.2501.

**IC 25-1-1-2 License defined**

Sec. 2. The term "license" as used in this chapter shall be construed to mean and include motor vehicle registration licenses, certificates of title showing the ownership of any motor vehicle, except those classed as passenger vehicles.

(Formerly: Acts 1931, c.124, s.2; Acts 1972, P.L.183, SEC.1.)

**IC 25-1-1-3 Repealed**

(Repealed by Acts 1978, P.L.2, SEC.2570.)

**IC 25-1-1-4 Repealed**

(Repealed by Acts 1978, P.L.2, SEC.2570.)

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INDIANA CODE § 25-1-1.1

**Chapter 1.1. Effect of Criminal Convictions on Licensed or Registered Persons**

**IC 25-1-1.1-1 Denial, revocation, or suspension of license or certificate of registration; conviction of crime**

Sec. 1. Except as provided under sections 2 through 3 of this chapter, a license or certificate of registration that an individual is required by law to hold to engage in a business, profession, or occupation may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(Formerly: Acts 1973, P.L.249, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2502; P.L.67-1990, SEC.6.

**IC 25-1-1.1-2 Suspension or revocation of license or certificate; conviction for drug related offense**

Sec. 2. A board, a commission, or a committee may suspend or revoke a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
- (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, or hashish as a Class D felony under IC 35-48-4-11.
- (9) Maintaining a common nuisance under IC 35-48-4-13.
- (10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
- (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10).
- (12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).
- (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (12).

As added by P.L.67-1990, SEC.7. Amended by P.L.1-1991, SEC.162; P.L.17-2001, SEC.5; P.L.151-2006, SEC.10.

**IC 25-1-1.1-3 Suspension or revocation of license or certificate; conviction for additional drug related offenses**

Sec. 3. A board, a commission, or a committee shall revoke or suspend a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

- (1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.
- (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- (3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
- (4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
- (5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
- (6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
- (7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
- (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- (9) Dealing in marijuana, hash oil, or hashish under IC 35-48-4-10(b).
- (10) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).
- (11) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (9).
- (12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (11).
- (13) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

## INDIANA CODE § 25-1-1.2

### Chapter 1.2. Effect of Delinquency in Child Support Payments on Licensed or Registered Persons

#### IC 25-1-1.2-1 "Applicant" defined

Sec. 1. As used in this chapter, "applicant" means a person who applies for:

- (1) an unlimited license, certificate, registration, or permit;
- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit; or
- (4) an intern permit;

issued by a board regulating a profession or an occupation.

As added by P.L.133-1995, SEC.19.

#### IC 25-1-1.2-2 "Board" defined

Sec. 2. As used in this chapter, "board" means an entity that regulates occupations or professions under this title and the department of education established by IC 20-19-3-1.

As added by P.L.133-1995, SEC.19. Amended by P.L. 1-2005, SEC.191; P.L. 246-2005, SEC. 210.

#### IC 25-1-1.2-3 "Bureau" defined

Sec. 3. As used in this chapter, "bureau" means the child support bureau established by IC 31-25-3-1.

As added by P.L.133-1995, SEC.19. Amended by P.L.145-2006, SEC.157.

#### IC 25-1-1.2-4 "Delinquent" defined

Sec. 4. As used in this chapter, "delinquent" means at least:

- (1) two thousand dollars (\$2,000); or
- (2) three (3) months;

past due on payment of court ordered child support.

As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.18.

#### IC 25-1-1.2-5 "License" defined

Sec. 5. As used in this chapter, "license" has the meaning set forth in IC 25-1-2-6.

As added by P.L.133-1995, SEC.19.

#### IC 25-1-1.2-6 "Practitioner" defined

Sec. 6. As used in this chapter, "practitioner" means a person that holds:

- (1) an unlimited license, certificate, registration, or permit;
- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit; or
- (4) an intern permit;

issued by a board regulating a profession or an occupation.

As added by P.L.133-1995, SEC.19.

#### IC 25-1-1.2-7 Order for suspension or denial of license; notice to practitioner; contents; reinstatement

Sec. 7. (a) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal), the board shall:

- (1) suspend the license of the practitioner; or
- (2) deny the application of the applicant;

who is the subject of the order.

(b) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal), the board shall promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(1) That the practitioner's license has been suspended, beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate ten (10) business days after the board receives an order allowing reinstatement from the court that issued the suspension order.

(2) That the practitioner has the right to petition for reinstatement of the practitioner's license to the court that issued the order for suspension.

(c) The board may not reinstate a license suspended under this section until the board receives an order allowing reinstatement from the court that issued the order for suspension.

As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.19; P.L.1-1997, SEC.109.

#### IC 25-1-1.2-8 Notice of delinquency; contents; delinquency finding; probationary status; suspension; reinstatement

Sec. 8. (a) The board shall, upon receiving an order from the bureau under IC 31-25-4-32(e), send a notice to the practitioner identified by the bureau that includes the following:

(1) Specifies that the practitioner is delinquent and is subject to an order placing the practitioner on probationary status.

(2) Describes the amount of child support that the practitioner is in arrears.

(3) Explains that unless the practitioner contacts the bureau and:

(A) pays the practitioner's child support arrearage in full;

(B) establishes a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the board shall place the practitioner on probationary status.

(4) Explains that the practitioner may contest the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(5) Explains that the only basis for contesting the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status is a mistake of fact.

(6) Explains the procedures to:

(A) pay the practitioner's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

(C) request a hearing under IC 31-25-4-33.

(7) Explains that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the practitioner has:

(A) paid the practitioner's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) If the board is advised by the bureau that the practitioner either requested a hearing and failed to appear or appeared and was found to be delinquent, the board shall promptly mail a notice to the practitioner who is the subject of the order stating the following:

(1) That the practitioner's license has been placed on probationary status, beginning five (5) business days after the date the notice is

mailed, and that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the person has:

- (A) paid the person's child support arrearage in full; or
- (B) established a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

- (A) pay the person's child support arrearage in full; or
- (B) establish a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(c) If the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

- (1) pay the person's child support arrearage in full; or
- (2) establish a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(d) The board may not reinstate a license or permit placed on probation or suspended under this section until the board receives a notice from the bureau that the person has:

- (1) paid the person's child support arrearage in full; or
- (2) established a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

*As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.20; P.L.1-1997, SEC.110; P.L.145-2006, SEC.158; P.L.103-2007, SEC.7.*

#### **IC 25-1-1.2-9 Repealed**

*(Repealed by P.L.23-1996, SEC.33.)*

#### **IC 25-1-1.2-10 Repealed**

*(Repealed by P.L.23-1996, SEC.33.)*

## **INDIANA CODE § 25-1-2**

### **Chapter 2. Renewal of Licenses Granted by State Agencies. Notice of Expiration**

#### **IC 25-1-2-1 Declaration of intent**

Sec. 1. It is the declared intent of the general assembly by the enactment of this law to require those agencies which are authorized to issue the licenses designated in section 2.1 of this chapter, in the interests of efficiency and economy in the administration of government, to issue such designated permits, licenses, certificates of registration, and other evidences of compliance with statute or regulation, and renewals thereof, for periods of two (2) years duration rather than upon an annual basis, and at the time of issuance or reissuance, or at the time designated by law for the collection of fees therefore, to require the payment of such fees for a period of two (2) years rather than for one (1) year.

*(Formerly: Acts 1961, c.79, s.1.) As amended by P.L.1-1990, SEC.246.*

#### **IC 25-1-2-2 Repealed**

*(Repealed by P.L.1-1990, SEC.247.)*

#### **IC 25-1-2-2.1 Two year or longer period for certain licenses**

Sec. 2.1. Rather than being issued annually, the following permits,

licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

- (1) Certified public accountants, public accountants, and accounting practitioners.
- (2) Architects and landscape architects.
- (3) Dry cleaners.
- (4) Professional engineers.
- (5) Land surveyors.
- (6) Real estate brokers.
- (7) Real estate agents.
- (8) Security dealers' licenses issued by the securities commissioner.
- (9) Dental hygienists.
- (10) Dentists.
- (11) Veterinarians.
- (12) Physicians.
- (13) Chiropractors.
- (14) Physical therapists.
- (15) Optometrists.
- (16) Pharmacists and assistants, drugstores or pharmacies.
- (17) Motels and mobile home community licenses.
- (18) Nurses.
- (19) Podiatrists.
- (20) Occupational therapists and occupational therapy assistants.
- (21) Respiratory care practitioners.
- (22) Social workers, marriage and family therapists, and mental health counselors.
- (23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
- (24) Wholesale legend drug distributors.
- (25) Physician assistants.
- (26) Dietitians.
- (27) Hypnotists.
- (28) Athlete agents.
- (29) Manufactured home installers.
- (30) Home inspectors.
- (31) Massage therapists.

*As added by P.L.1-1990, SEC.248. Amended by P.L.186-1990, SEC.1; P.L.183-1991, SEC.1; P.L.182-1991, SEC.2; P.L.25-1992, SEC.26; P.L.227-1993, SEC.2; P.L.124-1994, SEC.1; P.L.234-1995, SEC.1; P.L.175-1997, SEC.2; P.L.147-1997, SEC.5; P.L.84-1998, SEC.1; P.L.54-2001, SEC.3; P.L.162-2002, SEC.1; P.L.145-2003, SEC.1; P.L.87-2005, SEC.31; P.L.200-2007, SEC.2; P.L.3-2008, SEC.175.*

#### **IC 25-1-2-3 Authorization to issue and reissue two year licenses**

Sec. 3. Effective October 1, 1961, such licensing agencies as are authorized to issue any of the foregoing shall issue and reissue such licenses and collect the fees for the same on the basis of two (2) years and the dates by month and day which govern the issuance or reissuance of licenses for one (1) year shall govern the issuance or reissuance of licenses for two (2) years; provided, that entire fees for a two (2) year period shall be payable before issuance thereof on the day and month designated for payment of fees for one (1) year licenses. *(Formerly: Acts 1961, c.79, s.3.) As amended by Acts 1982, P.L.154, SEC.1.*

#### **IC 25-1-2-4 Rebates and proration of fees**

Sec. 4. Rebates and proration of fees for fractions of a biennium shall be allowed only with respect to the second year of such license if claim be made therefor before the expiration of the first year for which the license was issued.

*(Formerly: Acts 1961, c.79, s.4.)*

### IC 25-1-2-5 Rules and regulations

Sec. 5. Notice shall be given and forms prepared by such licensing agencies as necessary to execute the provisions of this chapter and in order to expedite and effectuate the conversion from one (1) year licensing periods to those of two (2) years, such licensing agencies may adopt and promulgate such rules and regulations they may deem necessary in the manner prescribed by law.

(Formerly: Acts 1961, c.79, s.5.) As amended by Acts 1982, P.L.154, SEC.2.

### IC 25-1-2-6 Definitions; application of section; notice to licensee of need to renew

Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private investigator and security guard licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) Home inspectors licensing board.
- (43) State board of massage therapy.

(44) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

As added by Acts 1981, P.L.221, SEC.1. Amended by P.L.137-1985, SEC.5; P.L.246-1985, SEC.13; P.L.169-1985, SEC.22; P.L.149-1987, SEC.17; P.L.5-1988, SEC.132; P.L.28-1988, SEC.73; P.L.242-1989, SEC.4; P.L.234-1989, SEC.1; P.L.238-1989, SEC.4; P.L.186-1990, SEC.2; P.L.183-1991, SEC.2; P.L.23-1991, SEC.7; P.L.48-1991, SEC.12; P.L.2-1992, SEC.765; P.L.227-1993, SEC.3; P.L.33-1993, SEC.9; P.L.124-1994, SEC.2; P.L.175-1997, SEC.3; P.L.125-1997, SEC.17; P.L.147-1997, SEC.6; P.L.253-1997(ss), SEC.22; P.L.24-1999, SEC.2; P.L.82-2000, SEC.2; P.L.54-2001, SEC.4; P.L.162-2002, SEC.2; P.L.145-2003, SEC.2; P.L.185-2007, SEC.1; P.L.200-2007, SEC.3; P.L.3-2008, SEC.176.

### IC 25-1-2-7 Application of IC 25-1-2-6

Sec. 7. Section 6 of this chapter applies to the mining board (IC 22-10-1.5-2).

As added by P.L.37-1985, SEC.56.

### IC 25-1-2-8 Application of chapter; fees

Sec. 8. This chapter applies to the imposition and collection of fees under the following:

- IC 14-24-10
- IC 16-19-5-2
- IC 25-30-1-17
- IC 33-42-2-1.

As added by P.L.5-1988, SEC.133. Amended by P.L.2-1993, SEC.135; P.L.1-1995, SEC.69; P.L.98-2004, SEC.98.

### IC 25-1-2-9 Repealed

(Repealed by P.L. 194-2005, SEC. 87.)

## INDIANA CODE § 25-1-3

### Chapter 3. Civil Immunity of Regulatory Agencies

#### IC 25-1-3-1 Definitions

Sec. 1. (a) As used in this chapter, the term "regulatory board" means any state board, commission, or state agency which licenses persons in order to regulate the practice of a particular profession or professions.

(b) As used in this chapter, the term "board members" means members of a regulatory board.

(c) As used in this chapter, the term "secretary" means the executive secretary or other person charged with the administration of the affairs of a regulatory board.

(Formerly: Acts 1975, P.L.268, SEC.1.)

#### IC 25-1-3-2 Extent of immunity from civil liability

Sec. 2. The board members, the secretary, his staff, counsel, investigators and hearing officer of every regulatory board, except as provided in section 4 of this chapter, shall be immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties. This section shall not be construed to include civil actions for damages not directly related to the investigative process and shall

apply only to the process for the finding of fact of the regulatory board.  
(Formerly: Acts 1975, P.L.268, SEC.1.)

### **IC 25-1-3-3 Immunity from civil liability; statements in course of investigatory hearing or review proceedings**

Sec. 3. Any person shall be immune from civil liability for damages for any sworn or written statements, made without malice, and transmitted to the regulatory board, executive secretary, or his staff, or made in the course of investigatory, hearing or review proceedings.  
(Formerly: Acts 1975, P.L.268, SEC.1.)

### **IC 25-1-3-4 Regulatory boards covered**

Sec. 4. The provisions of this chapter extend to every regulatory board of the state except the disciplinary commission of the supreme court of Indiana which is protected under IC 1971, 33-2-3-1.  
(Formerly: Acts 1975, P.L.268, SEC.1.)

## **INDIANA CODE § 25-1-5**

### **Chapter 5. Professional Licensing Agency**

#### **IC 25-1-5-1 Centralization of staff, functions, and services; purpose**

Sec. 1. The centralization of staff, functions, and services contemplated by this chapter shall be done in such a way as to enhance the Indiana professional licensing agency's ability to:

- (1) make maximum use of data processing as a means of more efficient operation; and
- (2) provide more services and carry out functions of superior quality.

As added by Acts 1981, P.L.222, SEC.2. Amended by P.L.169-1985, SEC.23; P.L. 206-2005, SEC. 1.

#### **IC 25-1-5-2 Definitions**

Sec. 2. As used in this chapter:

- (1) "Agency" means the Indiana professional licensing agency established by section 3 of this chapter.
- (2) "Board" means any agency, board, advisory committee, or group included in section 3 of this chapter.

As added by Acts 1981, P.L. 222, SEC. 2. Amended by P.L. 206-2005, SEC. 2.

#### **IC 25-1-5-3 Indiana professional licensing agency; functions, duties, and responsibilities**

Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 25-38.1-2).
- (13) Controlled substances advisory committee (IC 35-48-2-1).
- (14) Committee of hearing aid dealer examiners (IC 25-20).
- (15) Indiana physical therapy committee (IC 25-27).
- (16) Respiratory care committee (IC 25-34.5).

(17) Occupational therapy committee (IC 25-23.5).

(18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(19) Physician assistant committee (IC 25-27.5).

(20) Indiana athletic trainers board (IC 25-5.1-2-1).

(21) Indiana dietitians certification board (IC 25-14.5-2-1).

(22) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

As added by Acts 1981, P.L.222, SEC.2. Amended by Acts 1982, P.L.113, SEC.8; P.L.137-1985, SEC.6; P.L.169-1985, SEC.24; P.L.149-1987, SEC.18; P.L.242-1989, SEC.5; P.L.238-1989, SEC.5; P.L.186-1990, SEC.3; P.L.48-1991, SEC.13; P.L.227-1993, SEC.4; P.L.213-1993, SEC.1; P.L.33-1993, SEC.10; P.L.124-1994, SEC.3; P.L.175-1997, SEC.4; P.L.147-1997, SEC.7; P.L.84-1998, SEC.2; P.L.24-1999, SEC.3; P.L. 206-2005, SEC. 3; P.L.2-2008, SEC.57.

#### **IC 25-1-5-4 Additional duties and functions; staff**

Sec. 4. (a) The agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

- (1) notice of board meetings and other communication services;
- (2) recordkeeping of board meetings, proceedings, and actions;
- (3) recordkeeping of all persons licensed, regulated, or certified by a board;
- (4) administration of examinations; and
- (5) administration of license or certificate issuance or renewal.

(b) In addition the agency:

- (1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;
- (2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and
- (3) may consolidate, where feasible, office space, recordkeeping, and data processing services.

(c) In administering the renewal of licenses or certificates under this chapter, the agency shall send a notice of the upcoming expiration of a license or certificate to each holder of a license or certificate at least sixty (60) days before the expiration of the license or certificate. The notice must inform the holder of the license or certificate of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the agency, the holder of the license or certificate is not subject to a sanction for failure to renew if, once notice is received from the agency, the license or certificate is renewed within forty-five (45) days after receipt of the notice.

(d) In administering an examination for licensure or certification, the agency shall make the appropriate application forms available at least thirty (30) days before the deadline for submitting an application to all persons wishing to take the examination.

(e) The agency may require an applicant for license renewal to submit evidence proving that:

- (1) the applicant continues to meet the minimum requirements for licensure; and
- (2) the applicant is not in violation of:
  - (A) the statute regulating the applicant's profession; or
  - (B) rules adopted by the board regulating the applicant's profession.

(f) The agency shall process an application for renewal of a license or certificate:

- (1) not later than ten (10) days after the agency receives all required forms and evidence; or

(2) within twenty-four (24) hours after the time that an applicant for renewal appears in person at the agency with all required forms and evidence.

This subsection does not require the agency to issue a renewal license or certificate to an applicant if subsection (g) applies.

(g) The agency may delay issuing a license renewal for up to ninety (90) days after the renewal date for the purpose of permitting the board to investigate information received by the agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the agency delays issuing a license renewal, the agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (h), before the end of the ninety (90) day period, the board shall do one (1) of the following:

(1) Deny the license renewal following a personal appearance by the applicant before the board.

(2) Issue the license renewal upon satisfaction of all other conditions for renewal.

(3) Issue the license renewal and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (i) if, following a personal appearance by the applicant before the board, the board has good cause to believe that there has been a violation of IC 25-1-9-4 by the applicant.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license and place the applicant on probation status under IC 25-1-9-9.

(h) If an individual fails to appear before the board under subsection (g), the board may take action on the applicant's license allowed under subsection (g)(1), (g)(2) or (g)(3).

(i) If the board makes a request under subsection (g)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after the hearing, the board finds the practitioner violated IC 25-1-9-4, the board may impose sanctions under IC 25-1-9-9. The board may delay issuing the renewal beyond the ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license remains valid until the final determination of the board is rendered unless the renewal is denied or the license is summarily suspended under IC 25-1-9-10.

(j) The license of the applicant for a license renewal remains valid during the ninety (90) day period unless the license renewal is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license shall be automatically renewed at the end of the ninety (90) day period.

(k) Notwithstanding any other statute, the agency may stagger license or certificate renewal cycles. However, if a renewal cycle for a specific board or committee is changed, the agency must obtain the approval of the affected board or committee.

(l) An application for a license, certificate, registration, or permit is abandoned without an action of the board, if the applicant does not complete the requirements to complete the application within one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

*As added by Acts 1981, P.L.222, SEC.2. Amended by P.L. 169-1985, SEC.25; P.L. 149-1987, SEC.19; P.L.22-1999, SEC.1; P.L.44-2000, SEC.1; P.L.75-2002, SEC.1; P.L. 206-2005, SEC. 4.*

#### **IC 25-1-5-5 Executive Director**

Sec. 5. (a) The agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the agency or the executive director's designee.

(d) The executive director is the chief fiscal officer of the agency and is responsible for hiring of all staff, and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint not to exceed three (3) deputy directors, who must be qualified to work for the boards which are served by the agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the agency. The costs of any such bonds shall be paid from funds available to the agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) The executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of a board or committee when requested to do so by the board or committee.

(h) The executive director or the executive director's designee may, upon request of a board or committee, provide advice and technical assistance on issues that may be presented to the boards or committees. *As added by Acts 1981, P.L.222, SEC.2. Amended by Acts 1982, P.L.113, SEC.9; P.L.169-1985, SEC.26; P.L.149-1987, SEC.20; P.L.48-1991, SEC.14; P.L.49-1997, SEC.63; P.L. 206-2005, SEC. 5.*

#### **IC 25-1-5-6 Executive director; representatives; staff placement**

Sec. 6. (a) The executive director may designate certain employees of the agency to represent the executive director of the agency at the board meetings, proceedings, or other activities of the board.

(b) The executive director shall assign staff to individual boards and shall work with the boards to ensure efficient utilization and placement of staff.

*As added by Acts 1981, P.L.222, SEC.2. Amended by P.L.169-1985, SEC.27; P.L. 206-2005, SEC. 6.*

#### **IC 25-1-5-7 Repealed**

*(Repealed by P.L.186-1990, SEC.17.)*

#### **IC 25-1-5-8 Repealed**

*(Repealed by P.L. 206-2005, SEC. 15)*

#### **IC 25-1-5-9 Submission of certified document as proof of required diploma**

Sec. 9. If a board or committee requires an applicant for a certificate or license to submit a certified copy of a diploma showing that the applicant graduated from a school or program as a condition for certification or licensure, the applicant may satisfy this requirement by submitting another certified document that shows that the applicant graduated from

or received the required diploma from the applicable school or program.  
*As added by P.L.177-1996, SEC.1.*

#### **IC 25-1-5-10 Provider profiles**

Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
  - (2) State board of dentistry (IC 25-14-1).
  - (3) Indiana state board of health facility administrators (IC 25-19-1).
  - (4) Medical licensing board of Indiana (IC 25-22.5-2).
  - (5) Indiana state board of nursing (IC 25-23-1).
  - (6) Indiana optometry board (IC 25-24).
  - (7) Indiana board of pharmacy (IC 25-26).
  - (8) Board of podiatric medicine (IC 25-29-2-1).
  - (9) Board of environmental health specialists (IC 25-32-1).
  - (10) Speech-language pathology and audiology board (IC 25-35.6-2).
  - (11) State psychology board (IC 25-33).
  - (12) Indiana board of veterinary medical examiners (IC 25-38.1-2).
  - (13) Indiana physical therapy committee (IC 25-27).
  - (14) Respiratory care committee (IC 25-34.5).
  - (15) Occupational therapy committee (IC 25-23.5).
  - (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
  - (17) Physician assistant committee (IC 25-27.5).
  - (18) Indiana athletic trainers board (IC 25-5.1-2-1).
  - (19) Indiana dietitians certification board (IC 25-14.5-2-1).
  - (20) Indiana hypnotist committee (IC 25-20.5-1-7).
- (b) The agency shall create and maintain a provider profile for each provider described in subsection (a).
- (c) A provider profile must contain the following information:
- (1) The provider's name.
  - (2) The provider's license, certification, registration, or permit number.
  - (3) The provider's license, certification, registration, or permit type.
  - (4) The date the provider's license, certification, registration, or permit was issued.
  - (5) The date the provider's license, certification, registration, or permit expires.
  - (6) The current status of the provider's license, certification, registration, or permit.
  - (7) The provider's city and state of record.
  - (8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).
- (d) The agency shall make provider profiles available to the public.
- (e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.
- (f) The agency may adopt rules under IC 4-22-2 to implement this section.
- As added by P.L.211-2001, SEC.1. Amended by P.L. 177-2005, SEC. 45; P.L.206-2005, SEC. 7; P.L.2-2008, SEC.58.*

#### **IC 25-1-5-11 Provision of Social Security number; access to numbers**

- Sec. 11. (a) An individual who applies for a license issued by a board under this chapter or who holds a license issued by a board under this chapter shall provide the individual's Social Security number to the agency.
- (b) The agency and the boards shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.

(c) Notwithstanding IC 4-1-10-3, the agency and the boards may allow access to the Social Security number of each person who is licensed under this chapter or has applied for a license under this chapter to:

- (1) a testing service that provides the examination for licensure to the agency or the boards; or
- (2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensee's profession for the purpose of coordinating licensure and disciplinary activities among the individual states.

*As added by P.L.157-2006, SEC.18.*

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### **INDIANA CODE § 25-1-7**

#### **Chapter 7. Investigation and Prosecution of Complaints Concerning Regulated Occupations**

##### **IC 25-1-7-1 Definitions**

Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

- (1) licensed, certified, or registered by a board listed in this section; and
- (2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15-9).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Indiana state board of nursing (IC 25-23-1).
- (14) Indiana optometry board (IC 25-24).
- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2).
- (22) Indiana board of veterinary medical examiners (IC 25-38.1).
- (23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.



- (24) Respiratory care committee (IC 25-34.5).
- (25) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (26) Occupational therapy committee (IC 25-23.5).
- (27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) State board of registration for land surveyors (IC 25-21.5-2-1).
- (30) Physician assistant committee (IC 25-27.5).
- (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Manufactured home installer licensing board (IC 25-23.7).
- (36) Home inspectors licensing board (IC 25-20.2-3-1).
- (37) State department of health, for out-of-state mobile health care facilities.
- (38) State board of massage therapy (IC 25-21.8-2-1)
- (39) Any other occupational or professional agency created after June 30, 1981.

*As added by Acts 1981, P.L.222, SEC.4. Amended by Acts 1982, P.L.113, SEC.12; P.L.137-1985, SEC.7; P.L.246-1985, SEC.15; P.L.169-1985, SEC.29; P.L.149-1987, SEC.21; P.L.257-1987, SEC.15; P.L.242-1989, SEC.6; P.L.234-1989, SEC.3; P.L.238-1989, SEC.6; P.L.1-1990, SEC.249; P.L.186-1990, SEC.5; P.L.183-1991, SEC.3; P.L.23-1991, SEC.9; P.L.48-1991, SEC.16; P.L.1-1992, SEC.130; P.L.30-1993, SEC.5; P.L.227-1993, SEC.5; P.L.213-1993, SEC.2; P.L.8-1993, SEC.371; P.L.33-1993, SEC.11; P.L.1-1994, SEC.120; P.L.124-1994, SEC.4; P.L.234-1995, SEC.3; P.L.175-1997, SEC.5; P.L.147-1997, SEC.8; P.L.84-1998, SEC.3; P.L.24-1999, SEC.4; P.L.82-2000, SEC.4; P.L.162-2002, SEC.4; P.L.145-2003, SEC.4; P.L.185-2007, SEC.4; P.L.193-2007, SEC.4; P.L.200-2007, SEC.5; P.L.3-2008, SEC.178; P.L.134, SEC.16.*

#### **IC 25-1-7-2 Duties of attorney general**

Sec. 2. The office of the attorney general, under the conditions specified in this chapter, may receive, investigate, and prosecute complaints concerning regulated occupations.

*As added by Acts 1981, P.L.222, SEC.4.*

#### **IC 25-1-7-3 Investigation of complaints**

Sec. 3. The division is responsible for the investigation of complaints concerning licensees.

*As added by Acts 1981, P.L.222, SEC.4.*

#### **IC 25-1-7-4 Complaints; requisites; standing**

Sec. 4. All complaints must be written and signed by the complainant and initially filed with the director. Except for employees of the attorney general's office acting in their official capacity, a complaint may be filed by any person, including members of any of the boards listed in section 1 of this chapter.

*As added by Acts 1981, P.L.222, SEC.4.*

#### **IC 25-1-7-5 Duties and powers of director**

Sec. 5. (a) Subsection (b)(1) does not apply to:

- (1) a complaint filed by:
  - (A) a member of any of the boards listed in section 1 of this chapter; or
  - (B) the Indiana professional licensing agency; or
- (2) a complaint filed under IC 25-1-5-4.
- (b) The director has the following duties and powers:

(1) The director shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.

(2) The director shall through any reasonable means notify the licensee of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.

(3) The director shall report any pertinent information regarding the status of the complaint to the complainant.

(4) The director may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.

(5) The director has the power to subpoena witnesses and to send for and compel the production of books, records, papers, and documents for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.22-1999, SEC.2; P.L.14-2000, SEC.55; P.L. 206-2005, SEC. 11.*

#### **IC 25-1-7-6 Statement of settlement; period of time to resolve**

Sec. 6. (a) This section does not apply to:

- (1) a complaint filed by:
  - (A) a member of any of the boards listed in section 1 of this chapter; or
  - (B) the Indiana professional licensing agency; or
- (2) a complaint filed under IC 25-1-5-4.

(b) If, at any time before the director files the director's recommendations with the attorney general, the board files with the director a statement signed by the licensee and the complainant that the complaint has been resolved, the director shall not take further action. For a period of thirty (30) days after the director has notified the board and the licensee that a complaint has been filed, the division shall not conduct any investigation or take any action whatsoever, unless requested by the board. If, during the thirty (30) days, the board requests an extension of the thirty (30) day time period, the director shall grant it for a period not exceeding an additional twenty (20) days. If at any time during the thirty (30) day period or an extension thereof, the board notifies the director of its intention not to proceed further to resolve the complaint, the division may proceed immediately under this chapter. For every purpose of this section, a board may designate a board member or staff member to act on behalf of or in the name of the board.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.22-1999, SEC.3; P.L. 206-2005, SEC. 12.*

#### **IC 25-1-7-7 Disciplinary sanctions; report to attorney general; prosecution; hearing officer**

Sec. 7. (a) If there has been no statement of settlement filed by the board under section 6 of this chapter, and if, after conducting an investigation, the director believes that the licensee should be subjected to disciplinary sanctions by the board of his regulated occupation, then he shall so report to the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter, on behalf of the state of Indiana, before the board. The board may designate any person as a hearing officer to hear the matter.

(b) Notwithstanding subsection (a) of this section, if the board by majority vote so requests, the attorney general shall prosecute the matter before the board, on behalf of the state of Indiana.

*As added by Acts 1981, P.L.222, SEC.4.*

### **IC 25-1-7-8 Witnesses**

Sec. 8. At the hearing, the board or hearing officer may call witnesses in addition to those presented by the state or the licensee.  
*As added by Acts 1981, P.L.222, SEC.4.*

### **IC 25-1-7-9 Disqualification of board member**

Sec. 9. A board member is disqualified from any consideration of the case if the board member filed the complaint or participated in negotiations regarding the complaint. The board member is not disqualified from the board's final determination solely because the board member was the hearing officer or determined the complaint and the information pertaining to the complaint was current significant investigative information (as defined by IC 25-23.2-1-5 (Repealed)).  
*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.181-2002, SEC.1; P.L.1-2007, SEC.166.*

### **IC 25-1-7-10 Confidentiality of complaints and information**

Sec. 10. (a) All complaints and information pertaining to the complaints shall be held in strict confidence until the attorney general files notice with the board of the attorney general's intent to prosecute the licensee.

(b) A person in the employ of the office of attorney general or any of the boards, or any person not a party to the complaint, may not disclose or further a disclosure of information concerning the complaint unless the disclosure is required:

- (1) under law; or
- (2) for the advancement of an investigation.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.181-2002, SEC.2; P.L.1-2007, SEC.167.*

### **IC 25-1-7-11 Administrative orders and procedures**

Sec. 11. Nothing in this chapter limits the rights of the licensee or the state under IC 4-21.5.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.7-1987, SEC.110.*

### **IC 25-1-7-12 Reimbursement of attorney general**

Sec. 12. (a) If:

- (1) a fund is created by statute for the payment of an unpaid judgment against a licensee; and
- (2) the office of the attorney general is required by statute to provide services to the boards that administer the funds described in subdivision (1);

the office of the attorney general is entitled to reimbursement for the costs incurred in providing the services described in subdivision (2).

(b) If:

- (1) more than one (1) fund is established by statute for the payment of an unpaid judgment against a licensee; and
- (2) the office of the attorney general is entitled to reimbursement under subsection (a);

the funds for reimbursement shall be taken in equal amounts from each of the funds described in subdivision (1).

*As added by P.L.255-1987, SEC.1.*

### **IC 25-1-7-13 Reports; contents**

Sec. 13. The office of the attorney general shall submit to each board, at the request of the board, a report that includes the following information concerning that regulated occupation:

- (1) The number of complaints filed.
- (2) The number of cases currently under investigation.
- (3) The number of cases closed.
- (4) The number of cases resolved.
- (5) The age of the complaints.

*As added by P.L.177-1997, SEC.1.*

## **INDIANA CODE § 25-1-8**

### **Chapter 8. Occupational and Professional Licensure, Registration, and Certification Fees**

#### **IC 25-1-8-1 "Board" defined**

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Mining board (IC 22-10-1.5-2).
- (14) Indiana state board of nursing (IC 25-23-1).
- (15) Indiana optometry board (IC 25-24).
- (16) Indiana board of pharmacy (IC 25-26).
- (17) Indiana plumbing commission (IC 25-28.5-1-3).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2-1).
- (22) Indiana board of veterinary medical examiners (IC 25-38.1-2-1).
- (23) Department of insurance (IC 27-1).
- (24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
- (25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (26) Private investigator and security guard licensing board (IC 25-30-1.5-2).
- (27) Occupational therapy committee (IC 25-23.5-2-1).
- (28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
- (29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (30) State board of registration for land surveyors (IC 25-21.5-2-1).
- (31) Physician assistant committee (IC 25-27.5).
- (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- (33) Board of podiatric medicine (IC 25-29-2-1).
- (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- (35) Indiana physical therapy committee (IC 25-27).
- (36) Manufactured home installer licensing board (IC 25-23.7).
- (37) Home inspectors licensing board (IC 25-20.2-3-1).
- (38) State board of massage therapy (IC 25-21.8-2-1).
- (39) Any other occupational or professional agency created after June 30, 1981.

*As added by Acts 1981, P.L.223, SEC.1. Amended by P.L.250-1983, SEC.1; P.L.246-1985, SEC.16; P.L.169-1985, SEC.30; P.L.19-1986, SEC.42; P.L.149-1987, SEC.22; P.L.257-1987, SEC.16; P.L.3-1989, SEC.144; P.L.234-1989, SEC.4; P.L.186-1990, SEC.6; P.L.183-1991, SEC.4; P.L.23-1991, SEC.10; P.L.48-1991, SEC.17; P.L.1-1992, SEC.131; P.L.30-1993, SEC.6; P.L.33-1993, SEC.12; P.L.213-1993, SEC.3; P.L.227-1993, SEC.6; P.L.1-1994, SEC.121; P.L.124-1995, SEC.5; P.L.234-1995, SEC.4; P.L.147-1997, SEC.9; P.L.84-1998,*

SEC.4; P.L.24-1999, SEC.5; P.L.82-2000, SEC.5; P.L.162-2002, SEC.5; P.L.2-2003, SEC.64; P.L.145-2003, SEC.5; P.L.185-2007, SEC.5; P.L.200-2007, SEC.6; P.L.3-2008, SEC.179.

#### **IC 25-1-8-1.1 Repealed**

*(Repealed by P.L.19-1986, SEC.43.)*

#### **IC 25-1-8-2 Fees; establishment and collection**

Sec. 2. (a) Notwithstanding any other provision regarding the fees to be assessed by a board, a board shall establish by rule and cause to be collected fees for the following:

- (1) Examination of applicants for licensure, registration, or certification.
- (2) Issuance, renewal, or transfer of a license, registration, or certificate.
- (3) Restoration of an expired license, registration, or certificate when such action is authorized by law.
- (4) Issuance of licenses by reciprocity or endorsement for out-of-state applicants.
- (5) Issuance of board or committee reciprocity or endorsements for practitioners licensed, certified, or registered in Indiana who apply to another state for a license.

No fee shall be less than twenty-five dollars (\$25) unless the fee is collected under a rule adopted by the board which sets a fee for miscellaneous expenses incurred by the board on behalf of the practitioners the board regulates.

(b) Fees established by statute shall remain in effect until replaced by a new fee adopted by rule under this section.

(c) In no case shall the fees be less than are required to pay all of the costs, both direct and indirect, of the operation of the board.

(d) For the payment of fees, a board shall accept cash, a draft, a money order, a cashier's check, and a certified or other personal check. If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the board may void the license, registration, or certificate for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

(f) A board shall charge a fee of not more than ten dollars (\$10) for the issuance of a duplicate license, registration, or certificate.

*As added by Acts 1981, P.L.223, SEC.1. Amended by Acts 1982, P.L.113, SEC.13; P.L.169-1985, SEC.31; P.L.48-1991, SEC.18; P.L.33-1993, SEC.13; P.L.235-1995, SEC.1; P.L.197-2007, SEC.19.*

#### **IC 25-1-8-3 Quadrennial license or registration cycle; refunds**

Sec. 3. (a) A board, operating on a quadrennial license, registration, or certificate renewal cycle, shall refund one-half (1/2) of the amount of the license, registration, or certificate fee if the holder of the license, registration, or certificate surrenders it at least two (2) years before it expires.

(b) This section does not apply to the holder of a license, registration, or certificate revoked or suspended by the board.

*As added by Acts 1982, P.L.113, SEC.14.*

#### **IC 25-1-8-4 Quadrennial license renewal system**

Sec. 4. (a) Notwithstanding any law establishing a biennial license renewal system, a board operating on such a system may by rule establish a quadrennial license renewal system.

(b) If a board establishes a quadrennial license renewal system, it may provide for a reduction in the fees for the four (4) year license.

*As added by P.L.234-1983, SEC.3.*

#### **IC 25-1-8-5 Employment of professionals for testing; examination on statutes, rules, and regulations; standards of review**

Sec. 5. (a) Notwithstanding any statutory provisions regarding the administration of examinations, a board or committee may employ

organizations or additional professionals to assist in the preparation, administration, and scoring of licensing examinations.

(b) A board or committee may require applicants for licensure, certification, or registration by examination, endorsement, or reciprocity to pass a test on the state or federal statutes, state rules, and federal regulations that the board or committee determines by rule to be relevant to the practice of a regulated profession.

(c) A board or committee may enter into a contract with a testing company or national association to set the standards of review for an examination by an applicant for licensure, certification, or registration. The standards of review may include:

- (1) setting fees for review;
- (2) requiring that an examination remain confidential; and
- (3) prohibiting the release of the examination or copies of the examination.

*As added by P.L.169-1985, SEC.32. Amended by P.L.152-1988, SEC.5; P.L.48-1991, SEC.19.*

#### **IC 25-1-8-6 Reinstatement of delinquent or lapsed licenses**

Sec. 6. (a) As used in this section, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana athletic trainers board (IC 25-5.1-2-1).
- (4) Indiana auctioneer commission (IC 25-6.1-2-1).
- (5) State board of barber examiners (IC 25-7-5-1).
- (6) State boxing commission (IC 25-9-1).
- (7) Board of chiropractic examiners (IC 25-10-1).
- (8) State board of cosmetology examiners (IC 25-8-3-1).
- (9) State board of dentistry (IC 25-14-1).
- (10) Indiana dietitians certification board (IC 25-14.5-2-1).
- (11) State board of registration for professional engineers (IC 25-31-1-3).
- (12) Board of environmental health specialists (IC 25-32-1).
- (13) State board of funeral and cemetery service (IC 25-15-9).
- (14) Indiana state board of health facility administrators (IC 25-19-1).
- (15) Committee of hearing aid dealer examiners (IC 25-20-1-1.5).
- (16) Home inspectors licensing board (IC 25-20.2-3-1).
- (17) Indiana hypnotist committee (IC 25-20.5-1-7).
- (18) State board of registration for land surveyors (IC 25-21.5-2-1).
- (19) Manufactured home installer licensing board (IC 25-23.7).
- (20) Medical licensing board of Indiana (IC 25-22.5-2).
- (21) Indiana state board of nursing (IC 25-23-1).
- (22) Occupational therapy committee (IC 25-23.5).
- (23) Indiana optometry board (IC 25-24).
- (24) Indiana board of pharmacy (IC 25-26).
- (25) Indiana physical therapy committee (IC 25-27).
- (26) Physician assistant committee (IC 25-27.5).
- (27) Indiana plumbing commission (IC 25-28.5-1-3).
- (28) Board of podiatric medicine (IC 25-29-2-1).
- (29) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (30) State psychology board (IC 25-33).
- (31) Indiana real estate commission (IC 25-34.1-2).
- (32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (33) Respiratory care committee (IC 25-34.5).
- (34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (35) Speech-language pathology and audiology board (IC 25-35.6-2).
- (36) Indiana board of veterinary medical examiners (IC 25-38.1).
- (37) State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

*As added by P.L.269-2001, SEC.5. Amended by P.L. 206-2005, SEC. 13; P.L.157-2006, SEC.20; P.L.185-2007, SEC.6; P.L.197-2007, SEC.20; P.L.3-2008, SEC.180; P.L.105-2008, SEC.2.*

#### **IC 25-1-8-7 Repealed**

*(Repealed by P.L.157-2006, SEC.76.)*

#### **IC 25-1-8-8 License reinstatement; grounds for denial**

Sec. 8. (a) As used in this section, "board" has the meaning set forth in section 6(a) of this chapter.

(b) The licensing agency may delay reinstating a license, certificate, or registration for not more than ninety (90) days after the date the applicant applies for reinstatement of a license, certificate, or registration to permit the board to investigate information received by the licensing agency that the applicant for reinstatement may have committed an act for which the applicant may be disciplined. If the licensing agency delays reinstating a license, certificate, or registration, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in

subsection (c), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny reinstatement of the license, certificate, or registration following a personal appearance by the applicant before the board.

(2) Reinstatement of the license, certificate, or registration upon satisfaction of all other requirements for reinstatement.

(3) Reinstatement of the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (d) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, reinstate the license, certificate, or registration and place the applicant on probation status under IC 25-1-9-9 or IC 25-1-11-12.

(c) If an applicant fails to appear before the board under subsection (b), the board may take action as provided in subsection (b)(1), (b)(2), or (b)(3).

(d) If the board makes a request under subsection (b)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds that the applicant violated IC 25-1-9-4 or IC 25-1-11-5, the board may impose sanctions under IC 25-1-9-9 or IC 25-1-11-12. The board may delay reinstating a license, certificate, or registration beyond ninety (90) days after the date the applicant files an application for reinstatement of a license, certificate, or registration until a final determination is made by the board.

(e) The license, certificate, or registration of the applicant for license reinstatement remains invalid during the ninety (90) day period unless:

(1) the license, certificate, or registration is reinstated following a personal appearance by the applicant before the board before the end of the ninety (90) day period;

(2) the board issues a conditional license to the practitioner that is effective until the reinstatement is denied or the license is reinstated; or

(3) the reinstatement is denied.

If the ninety (90) day period expires without action by the board, the license, certificate, or registration shall be automatically reinstated at the end of the ninety (90) day period.

*As added by P.L.197-2007, SEC.21.*

## **INDIANA CODE § 25-1-9**

### **Chapter 9. Health Professions Standards of Practice**

#### **IC 25-1-9-1 "Board" defined**

Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

- (12) Indiana board of veterinary medical examiners (IC 25-38.1-2).
  - (13) Indiana physical therapy committee (IC 25-27-1).
  - (14) Respiratory care committee (IC 25-34.5).
  - (15) Occupational therapy committee (IC 25-23.5).
  - (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
  - (17) Physician assistant committee (IC 25-27.5).
  - (18) Indiana athletic trainers board (IC 25-5.1-2-1).
  - (19) Indiana dietitians certification board (IC 25-14.5-2-1).
  - (20) Indiana hypnotist committee (IC 25-20.5-1-7).
- As added by P.L.152-1988, SEC.1. Amended by P.L.242-1989, SEC.7; P.L.238-1989, SEC.7; P.L.186-1990, SEC.7; P.L.48-1991, SEC.20; P.L.227-1993, SEC.7; P.L.33-1993, SEC.14; P.L.213-1993, SEC.4; P.L.1-1994, SEC.122; P.L.124-1994, SEC.6; P.L.175-1997, SEC.6; P.L.147-1997, SEC.10; P.L.84-1998, SEC.5; P.L.24-1999, SEC.6; P.L.2-2008, SEC.59.*

#### **IC 25-1-9-2 "Practitioner" defined**

Sec. 2. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-3 "License" defined**

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-3.5 "Sexual contact" defined**

Sec. 3.5. As used in this chapter, "sexual contact" means:

- (1) sexual intercourse (as defined in IC 35-41-1-26);
- (2) deviate sexual conduct (as defined in IC 35-41-1-9); or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched.

*As added by P.L.200-2001, SEC.1.*

#### **IC 25-1-9-4 Standards of professional practice; findings required for sanctions; evidence of foreign discipline**

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:
  - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a license examination;
  - (B) engaged in fraud or material deception in the course of professional services or activities;
  - (C) advertised services in a false or misleading manner; or
  - (D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices, including fraud under:
    - (i) Medicaid (42 U.S.C. 1396 et seq.);
    - (ii) Medicare (42 U.S.C. 1395 et seq.);
    - (iii) the children's health insurance program under IC 12-17.6; or
    - (iv) insurance claims;
- (2) a practitioner has been convicted of a crime that

- (A) has a direct bearing on the practitioner's ability to continue to practice competently; or
- (B) is harmful to the public;
- (3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence that:

- (i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and
- (ii) does not include activities performed under IC 16-21-2-9;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any state or jurisdiction on grounds similar to those under this chapter;

(8) a practitioner has diverted:

(A) a legend drug (as defined in IC 16-18-2-199); or

(B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;

(9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;

(10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;

(11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care;

(12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization; or

(13) a practitioner has assisted another person in committing an act that would be grounds for disciplinary sanctions under this chapter.

(b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).

(c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).

*As added by P.L.152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L.200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96; P.L.197-2007, SEC.22.*

#### **IC 25-1-9-5 Optometry employment practice**

Sec. 5. In addition to section 4 of this chapter, a practitioner licensed to practice optometry is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has accepted employment to practice optometry from a person other than:

- (1) a corporation formed by an optometrist under IC 23-1.5; or

(2) an individual who is licensed as an optometrist under this article and whose legal residence is in Indiana.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-6 Veterinary practitioners; cruelty to animals**

Sec. 6. In addition to section 4 of this chapter, a practitioner licensed to practice veterinary medicine or registered as a veterinary technician is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has engaged in cruelty to animals.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-6.5 Chiropractors; waiver of deductible or copayment**

Sec. 6.5. (a) In addition to section 4 of this chapter, a practitioner licensed to practice chiropractic is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds a practitioner has:

- (1) waived a payment of a deductible or a copayment required to be made to the practitioner by a patient under the patient's insurance or health care plan; and
- (2) advertised the waiver of a payment described in subdivision (1).

(b) This section does not apply to the waiver of a deductible or a copayment by a practitioner if:

- (1) the practitioner determines chiropractic service is necessary for the immediate health and welfare of a patient;
- (2) the practitioner determines the payment of a deductible or a copayment would create a substantial financial hardship for the patient; and
- (3) the waiver is based on the evaluation of the individual patient and is not a regular business practice of the practitioner.

*As added by P.L.151-1989, SEC.9.*

#### **IC 25-1-9-6.7 Marriage and family therapists; disciplinary sanctions**

Sec. 6.7. In addition to the actions listed under section 4 of this chapter that subject a practitioner to the exercise of disciplinary sanctions, a practitioner who is licensed under IC 25-23.6 is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds that the practitioner has:

- (1) performed any therapy that, by the prevailing standards of the mental health professions in the community where the services were provided, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;
- (2) failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in professional activities, including the undertaking of activities that the practitioner is not qualified by training or experience to undertake;
- (3) performed services, including any duties required of the individual under IC 31, in reckless disregard of the best interests of a patient, a client, or the public;
- (4) without the consent of the child's parent, guardian, or custodian, knowingly participated in the child's removal or precipitated others to remove a child from the child's home unless:

- (A) the child's physical health was endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;
- (B) the child had been or was in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or
- (C) the child was in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order was first obtained;

(5) willfully made or filed a false report or record, failed to file a report or record required by law, willfully impeded or obstructed the filing of a report or record, or induced another individual to:

(A) make or file a false report or record; or

(B) impede or obstruct the filing of a report or record; or

(6) performed a diagnosis (as defined in IC 25-22.5-1-1.1(c));

(7) provided evidence in an administrative or judicial proceeding that had insufficient factual basis for the conclusions rendered by the practitioner;

(8) willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner; or

(9) performed services outside of the scope of practice of the license issued under IC 25-23.6.

*As added by P.L.147-1997, SEC.11. Amended by P.L.2-1998, SEC.65.*

#### **IC 25-1-9-6.8 Practitioner guidelines before prescribing stimulant medication for a child for treatment of certain disorders**

Sec. 6.8. (a) This section applies to a practitioner who is:

(1) licensed to practice medicine or osteopathic medicine under IC 25-22.5; or

(2) an advanced practice nurse granted prescriptive authority under IC 25-23, and whose practice agreement with a collaborating physician reflects the conditions specified in subsection (b).

(b) Before prescribing a stimulant medication for a child for the treatment of attention deficit disorder or attention deficit hyperactivity disorder, a practitioner described in subsection (a) shall follow the most recent guidelines adopted by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry for the diagnosis and evaluation of a child with attention deficit disorder or attention deficit hyperactivity disorder.

*As added by P.L.107-2002, SEC.28.*

#### **IC 25-1-9-6.9 Failing to provide or providing false information to agency**

Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner has:

(1) failed to provide information requested by the Indiana professional licensing agency; or

(2) knowingly provided false information to the Indiana professional licensing agency;

for a provider profile required under IC 25-1-5-10.

*As added by P.L.211-2001, SEC.2. Amended by P.L. 206-2005, SEC.14.*

#### **IC 25-1-9-7 Physical or mental examination; power to require**

Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's own expense, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

*As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.2.*

#### **IC 25-1-9-8 Failure to submit to physical or mental examination; sanctions**

Sec. 8. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 10 of this chapter.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-9 Disciplinary sanctions**

Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to

disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
  - (2) Suspend a practitioner's license.
  - (3) Censure a practitioner.
  - (4) Issue a letter of reprimand.
  - (5) Place a practitioner on probation status and require the practitioner to:
    - (A) report regularly to the board upon the matters that are the basis of probation;
    - (B) limit practice to those areas prescribed by the board;
    - (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
    - (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.
  - (6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.
  - (b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.
- As added by P.L.152-1988, SEC.1. Amended by P.L.48-1991, SEC.21; P.L.22-1999, SEC.5; P.L.32-2000, SEC.10; P.L.211-2001, SEC.3.*

**IC 25-1-9-10 Summary license suspension pending final adjudication; notice; opportunity to be heard**

Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under IC 25-22.5, IC 25-38.1, or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

- (1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and
- (2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

*As added by P.L.152-1988, SEC.1. Amended by P.L.43-1995, SEC.2; P.L.71-2000, SEC.18; P.L.2-2008, SEC.60.*

**IC 25-1-9-10.1 Retention of clinical consultants and experts to advise on suspension**

Sec. 10.1. The attorney general may retain the services of a clinical consultant or an expert to provide the attorney general with advice concerning the acts that are the subject of a suspension under this chapter.

*As added by P.L.43-1995, SEC.3.*

**IC 25-1-9-11 Reinstatement of suspended licenses**

Sec. 11. The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

*As added by P.L.152-1988, SEC.1.*

**IC 25-1-9-12 Reinstatement of revoked license**

Sec. 12. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

*As added by P.L.152-1988, SEC.1.*

**IC 25-1-9-13 Consistency of sanctions prescribed**

Sec. 13. The board shall seek to achieve consistency in the application of the sanctions authorized in this section. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

*As added by P.L.152-1988, SEC.1.*

**IC 25-1-9-14 Surrender of practitioners license instead of hearing; approval**

Sec. 14. A practitioner may petition the board to accept the surrender of the practitioner's license instead of a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

*As added by P.L.152-1988, SEC.1.*

**IC 25-1-9-15 Costs in disciplinary proceedings**

Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.

*As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.3.*

**IC 25-1-9-16 Refusal of licensure or grant of probationary license**

Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

(1) the applicant has been disciplined by a licensing entity of any state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and  
(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) The board may:

- (1) refuse to issue a license; or
- (2) issue a probationary license;

to an applicant for licensure if the applicant practiced without a license in violation of the law.

(c) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community restitution or service without compensation for a number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(d) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

*As added by P.L.33-1993, SEC.15. Amended by P.L.32-2000, SEC.11; P.L.197-2007, SEC.23.*

#### **IC 25-1-9-17 Applicant appearance before board or controlled substances advisory committee**

Sec. 17. The board and the controlled substances advisory committee (IC 35-48-2-1) may require an applicant for licensure to appear before the board or committee before issuing a license.

*As added by P.L.33-1993, SEC.16.*

#### **IC 25-1-9-18 Fitness determination of health care provider; filing complaint**

Sec. 18. (a) If the insurance commissioner forwards to the board the name of a practitioner under IC 34-18-9-4(a) (or IC 27-12-9-4(a) before its repeal), the board shall consider whether:

- (1) the practitioner has become unfit to practice under section 4 of this chapter; and
- (2) a complaint should be filed under IC 25-1-7-4.

(b) If the board determines that a complaint should be filed under subsection (a), the board must report to the consumer protection division whether the board will schedule the matter:

- (1) for informal negotiation under IC 25-1-7-6;
- (2) on the board's agenda for a vote requesting that the attorney general prosecute the matter before the board under IC 25-1-7-7; or
- (3) on the board's agenda for a vote on summary suspension of the practitioner's license pending prosecution of the matter before the board under IC 25-1-7-7.

(c) A board may designate a board member or staff member to act on behalf of the board under this section.

*As added by P.L.43-1995, SEC.4. Amended by P.L.1-1998, SEC.131.*

#### **IC 25-1-9-19 Third party billing notice**

Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:

- (1) conspicuously states that the notice is not a bill;
- (2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.  
*As added by P.L.178-2003, SEC.12.*

#### **IC 25-1-9-20 Adoption of rules; spouses of active duty military personnel**

Sec. 20. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:

- (1) license;
- (2) certificate;
- (3) registration; or
- (4) permit;

of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.

*As added by P.L.144-2007, SEC.25.*

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### **INDIANA CODE § 25-1-10**

#### **Chapter 10. Reserved**

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### **INDIANA CODE § 25-1-12**

#### **Chapter 12. Renewal of Licenses Held by Individuals in Military Service**

##### **IC 25-1-12-1 Applicability of chapter**

Sec. 1. This chapter applies to an individual who:

- (1) holds a license, certificate, registration, or permit under this title, IC 16, or IC 22; and
- (2) is called to active duty.

*As added by P.L.88-2004, SEC.2. Amended by P.L.2-2008, SEC.61.*

##### **IC 25-1-12-2 "Active duty" defined**

Sec. 2. As used in this chapter, "active duty" means full-time service in the:

- (1) armed forces of the United States; or
- (2) national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

*As added by P.L.88-2004, SEC.2.*

##### **IC 25-1-12-3 "Armed forces of the United States" defined**

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

- (1) the army;
- (2) the navy;
- (3) the air force;
- (4) the coast guard;
- (5) the marine corps; or
- (6) the merchant marine.

*As added by P.L.88-2004, SEC.2. Amended by P.L. 2-2005, SEC. 64.*

##### **IC 25-1-12-4 "National guard" defined**

Sec. 4. As used in this chapter, "national guard" means:

- (1) the Indiana army national guard; or
- (2) the Indiana air national guard.

*As added by P.L.88-2004, SEC.2.*

##### **IC 25-1-12-5 "Practitioner" defined**

Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;



(3) a temporary license, certificate, registration, or permit;  
(4) an intern permit; or  
(5) a provisional license;  
issued under this title, IC 16, or IC 22.  
*As added by P.L.88-2004, SEC.2. Amended by P.L.2-2008, SEC.62.*

**IC 25-1-12-6 Extension to renew license or complete continuing education; requirements for extension; additional extensions**

Sec. 6. (a) Notwithstanding any other law, a practitioner who is called to active duty out-of-state and meets the requirements of subsection (b) is entitled to an extension of time described in subsection (c) to:

- (1) renew; and
  - (2) complete the continuing education required by;  
the practitioner's license, certificate, registration, or permit.
- (b) The practitioner must meet the following requirements to receive the extension of time provided under subsection (a):
- (1) On the date the practitioner enters active duty, the practitioner's license, certificate, registration, or permit may not be revoked, suspended, lapsed, or be the subject of a complaint under IC 25-1-7.
  - (2) The practitioner's license, certificate, registration, or permit must expire while the practitioner is out-of-state on active duty and the practitioner must not have received the notice of expiration before the date the practitioner entered active duty.
  - (3) The practitioner shall provide proof of out-of-state active duty by providing a copy of the practitioner's:
    - (A) discharge; or
    - (B) government movement orders;to the agency, board, commission, or committee issuing the practitioner's license, certificate, registration, or permit at the time the practitioner renews the practitioner's license, certificate, registration, or permit under this chapter.
- (c) The extension of time provided under subsection (a) is equal to one hundred eighty (180) days after the date of the practitioner's discharge or release from active duty.

(d) The agency, board, commission, or committee that issued the practitioner's license, certificate, registration, or permit may extend the period provided in subsection (c) if the agency or board determines that an illness, an injury, or a disability related to the practitioner's active duty prevents the practitioner from renewing or completing the continuing education required for the practitioner's license, certificate, registration, or permit. However, the agency, board, commission, or committee may not extend the period for longer than three hundred sixty-five (365) days after the date of the practitioner's discharge or release from active duty.  
*As added by P.L.88-2004, SEC.2. Amended by P.L. 2-2005, SEC. 65.*

**IC 25-1-12-7 Waiver of late fees**

Sec. 7. Any late fees that may be assessed against a practitioner in connection with a renewal under this chapter are waived.  
*As added by P.L.88-2004, SEC.2.*

**IC 25-1-12-8 Construction with federal law**

Sec. 8. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

- (1) the armed forces of the United States; or
- (2) the national guard;

under federal law.  
*As added by P.L.88-2004, SEC.2.*

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**INDIANA CODE § 25-1-13**

**Chapter 13. Indiana Scheduled Prescription Electronic Collection and Tracking Program**

**IC 25-1-13-1 Effective date**

Sec. 1. This chapter applies after June 30, 2007.  
*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-2 "Agency"**

Sec. 2. As used in this chapter, "agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.  
*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-3 "INSPECT"**

Sec. 3. As used in this chapter, "INSPECT" refers to the Indian scheduled prescription electronic collection and tracking program established by section 4 of this chapter.  
*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-4 Establishment of the Indiana scheduled prescription electronic collection and tracking program**

Sec. 4. The Indiana scheduled prescription electronic collection and tracking program is established within the agency.  
*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-5 Agency functions, duties, and responsibilities**

Sec. 5. The agency shall perform all administrative functions, duties, and responsibilities for the INSPECT program.  
*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-6 INSPECT program duties**

Sec. 6. The INSPECT program shall collect and process information received under IC 35-48-7-8.1 and has duties described in IC 35-48-7-10.1 and IC 35-48-7-11.1.  
*As added by P.L.65-2006, SEC.1.*

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**INDIANA CODE § 25-1-14**

**Chapter 14. Meetings**

**IC 25-1-14-1 Applicability**

Sec. 1. This section applies to a meeting of a board, committee, or commission listed in IC 25-1-5-3 or IC 25-1-6-3.  
*As added by P.L.179-2007, SEC.14.*

**IC 25-1-14-2 Participation by member not physically present at meeting**

Sec. 2. (a) A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

- (1) except as provided in subsections (b) and (c), at which at least a quorum is physically present at the place where the meeting is conducted; and
- (2) by using a means of communication that permits:
  - (A) all other members participating in the meeting; and
  - (B) all members of the public physically present at the place where the meeting is conducted;to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the state boxing commission may participate in meetings of the commission to consider the final approval of a permit for

a particular boxing or sparring match or exhibition under IC 25-9-1-6(b) by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c):

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

*As added by P.L.179-2007, SEC.14. Amended by P.L.105-2008, SEC.3.*

#### **IC 25-1-14-3 Member considered present**

Sec. 3. A member who participates in a meeting under section 2 of this chapter:

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

*As added by P.L.179-2007, SEC.14.*

#### **IC 25-1-14-4 Meeting memoranda requirements**

Sec. 4. The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in section 2 of this chapter; and
- (3) each member who was absent.

*As added by P.L.179-2007, SEC.14.*

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### **Non-Code Provision under Public Law 206-2005**

#### **P.L. 206-2005, SECTION 16**

(a) The rules adopted by the health professions bureau before July 1, 2005, and in effect on June 30, 2005, shall be treated after June 30, 2005, as the rules of the Indiana professional licensing agency.

(b) On July 1, 2005, the Indiana professional licensing agency becomes the owner of all of the property of the health professions bureau. An appropriation made to the health professions bureau shall be treated after June 30, 2005, as an appropriation to the Indiana professional licensing agency.

(c) Any reference in a law, a rule, a license, a registration, a certification, or an agreement to the health professions bureau shall be treated after June 30, 2005, as a reference to the Indiana professional licensing agency.

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## TITLE 844. MEDICAL LICENSING BOARD

### ARTICLE 4. MEDICAL DOCTORS; OSTEOPATHIC DOCTORS

#### Rule 1. General Provisions

##### 844 IAC 4-1-1 Purpose (Repealed)

Sec. 1. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

#### Rule 2. Fees

##### 844 IAC 4-2-1 Board fees (Repealed)

Sec. 1. (Repealed by Medical Licensing Board of Indiana; filed Feb 11, 2002, 4:32 p.m.: 25 IR 2246)

##### 844 IAC 4-2-2 Board fees

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-1-1

Sec. 2. (a) Every qualified applicant for licensure to practice as a medical doctor or osteopathic doctor shall pay to the medical licensing board of Indiana the following fees:

Examination	\$250
Endorsement-in	\$250
Endorsement-out	\$10
Renewal fee	\$200 per biennium
Duplicate license	\$10

(b) Every applicant for permits authorized by the medical licensing board of Indiana shall pay to the medical licensing board of Indiana the following fees:

Temporary medical permit, endorsement	
Candidates, teaching permit, postgraduate	
Training	\$100
Renewal fee for a temporary medical permit	\$50
Temporary medical permit (nonrenewable, limited scope)	\$100

(Medical Licensing Board of Indiana; 844 IAC 4-2-2; filed Feb 11, 2002, 4:32 p.m.: 25 IR 2246)

#### Rule 3. Definitions and Exclusions

##### 844 IAC 4-3-1 Diagnose; diagnosis

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 1. It is not necessary that the examination and diagnosis of biopsies, x-rays, or materials produced by a patient's body or substances obtained or removed from a patient's body be made in the presence of the patient. Information supplied either directly or indirectly by the patient may be utilized by the physician in arriving at such a diagnosis. The physician who makes such an examination or diagnosis is required to have a license to practice medicine or osteopathic medicine, although the physician does not see the patient.

(Medical Licensing Board of Indiana; 844 IAC 4-3-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2846; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242; readopted filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)

##### 844 IAC 4-3-2 Surgical operation

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-1

Sec. 2. "Surgical operation", as used in IC 25-22.5-1-1(a)(1)(C), includes, but is not limited to, the incising, cutting, or invading of human tissue by laser surgery.

(Medical Licensing Board of Indiana; 844 IAC 4-3-2; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242; readopted filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)

#### Rule 4. Admission to Practice (Repealed)

(Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)

#### Rule 4.1. Admission to Practice

##### 844 IAC 4-4.1-1 License by endorsement (Repealed)

Sec. 1. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-2 Temporary medical permits (Repealed)

Sec. 2. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-3 Examinations (Repealed)

Sec. 3. (Repealed by Medical Licensing Board of Indiana; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076)

##### 844 IAC 4-4.1-3.1 Examinations (Repealed)

Sec. 3.1. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-4 Unlimited licensure by FLEX examination (Repealed)

Sec. 4. (Repealed by Medical Licensing Board of Indiana; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076)

##### 844 IAC 4-4.1-4.1 Unlimited licensure by examination (Repealed)

Sec. 4.1. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-5 Applications (Repealed)

Sec. 5. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-6 Examination results (Repealed)

Sec. 6. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-7 Burden of proof (Repealed)

Sec. 7. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-8 Screening of applications (Repealed)

Sec. 8. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-9 Approved medical schools (Repealed)

Sec. 9. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-10 Approved residency programs (Repealed)

Sec. 10. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

##### 844 IAC 4-4.1-11 Notice of address change (Repealed)

Sec. 11. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

## Rule 4.5. Licensure to Practice

### 844 IAC 4-4.5-1 Available licenses and permits

**Authority:** IC 25-1-8-2; IC 25-22.5-2-7

**Affected:** IC 25-22.5-2

Sec. 1. An applicant may apply for the following:

- (1) Unlimited license to practice medicine or osteopathic medicine by:
  - (A) examination; or
  - (B) endorsement.
- (2) A temporary medical permit for an applicant who is applying for unlimited licensure by endorsement.
- (3) A temporary medical permit for postgraduate training.
- (4) A temporary medical teaching permit.
- (5) A limited scope temporary medical permit for an applicant who holds an unrestricted license to practice in another state.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 28)*

### 844 IAC 4-4.5-2 Licenses and permits issued for general practice only

**Authority:** IC 25-1-8-2; IC 25-22.5-2-7

**Affected:** IC 25-22.5-2

Sec. 2. A medical license issued by Indiana is for the general practice of medicine. Regardless of the applicant's certification by a specialty board, neither a license nor a permit shall be issued unless the applicant has fulfilled the general licensure requirements of IC 25-22.5 and this article.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-2; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

### 844 IAC 4-4.5-3 Approved medical schools

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-2-7

Sec. 3. (a) An approved school of medicine or school of osteopathic medicine is one located within the United States, its possessions, or Canada and is recognized by either:

- (1) the Liaison Committee on Medical Education, which is jointly sponsored by the American Medical Association (AMA) and the Association of American Medical Colleges (AAMC); or
- (2) the American Osteopathic Association (AOA) Bureau of Professional Education.

(b) In order to be approved by the board for the purpose of obtaining a license or permit, a school of medicine or school of osteopathic medicine located outside of the United States, its possessions, or Canada must maintain standards equivalent to those adopted by:

- (1) the Liaison Committee on Medical Education, Functions and Structure of a Medical School, Standards for Accreditation of Medical Education Programs Leading to the M.D. degree, 2001; or
- (2) the Bureau of Professional Education of the American Osteopathic Association, Accreditation of Colleges of Osteopathic Medicine, 2001.

(c) A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204. Copies of such standards are available from the respective entity originally issuing the incorporated matter as follows:

- (1) The LCME Secretariat, American Medical Association, 515 North State Street, Chicago, Illinois 60610.
- (2) The Bureau of Professional Education of the American Osteopathic Association, 142 East Ontario Street, Chicago, Illinois 60611.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-3; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

### 844 IAC 4-4.5-4 Approved postgraduate (internship and residency) programs

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-2-7

Sec. 4. An approved internship or residency program is one that was, at time the applicant was enrolled in the internship or residency program accepted by the:

- (1) Accreditation Council for Graduate Medical Education;
- (2) Executive Committee of the Council on Postdoctoral Training of the American Osteopathic Association; or
- (3) Royal College of Physicians and Surgeons of Canada.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-4; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

### 844 IAC 4-4.5-5 Authentic documents required

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-2-7

Sec. 5. All documents required by law to be submitted to the board shall be originals or certified copies thereof.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-5; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

### 844 IAC 4-4.5-6 Burden of proof

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-2-7

Sec. 6. Every applicant for licensure or temporary medical permit shall demonstrate that the applicant meets all of the qualifications required by Indiana statutes and by the rules of the board. In any proceeding before the board the burden of proof shall be on the applicant.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-6; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

### 844 IAC 4-4.5-7 Application for a license

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-8-2

Sec. 7. (a) A person seeking licensure to practice medicine or osteopathic medicine shall file an application on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a license shall provide the following:

- (1) Where the name on any document differs from the applicant's name, a notarized or certified copy of a marriage certificate or legal proof of name change must be submitted with the application.
- (2) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing of the application.
- (3) A certified copy of the original medical school or osteopathic medical school diploma. The following are requirements in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board may accept, in lieu of a diploma or certified copy thereof, other types of evidence, which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto.

(4) If the applicant is the graduate of a school of medicine or osteopathic medicine in the United States, its possessions, or

Canada, an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred must be submitted. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript.

(5) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript. If an original transcript is not available, the applicant must submit the following:

(A) A notarized or certified copy of the original medical school or osteopathic medical school transcript, which must include the degree conferred and the date the degree was conferred.

(B) An affidavit fully and clearly stating the reasons that an original transcript is not available.

(6) If the applicant has been convicted of a criminal offense (excluding minor traffic violations), the applicant shall submit a notarized statement detailing all criminal offenses (excluding minor traffic violations) for which the applicant has been convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(7) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit a notarized copy of a certificate issued to the applicant by the Educational Commission on Foreign Medical Graduates.

(8) All applicants who are now, or have been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.

(9) The applicant shall submit a self-query form completed by the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

(10) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-7; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

#### **844 IAC 4-4.5-8 Licensure by examination**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 8. An applicant for licensure by examination must:

(1) Pass Steps I, II, and III of the United States Medical Licensing Examination or pass Steps I, II, and III of the Comprehensive Osteopathic Medical Licensing Examination.

(2) Meet the requirements of IC 25-22.5.

(3) Meet the requirements of this article.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-8; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30)*

#### **844 IAC 4-4.5-9 Licensure by endorsement**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3; IC 25-22.5-5-2; IC 25-22.5-6

Sec. 9. (a) In addition to complying with section 7 of this rule, an applicant for licensure by endorsement shall submit proof that the applicant satisfactorily completed the written examination provided by the:

(1) National Board of Medical Examiners (NBME);

(2) National Board of Osteopathic Medical Examiners (NBOME); or

(3) Federation of State Medical Boards of the United States, Inc.

(FSMB).

(b) Acceptable examinations provided by an entity under subsection (a) are as follows:

(1) NBME.

(2) NBOME.

(3) Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).

(4) Federation of State Medical Boards of the United States (FLEX).

(5) United States Medical Licensing Examination (USMLE).

(c) Endorsement from states requiring the NBME, NBOME, or FLEX will be honored if the examination was taken and passed in a manner that was, in the opinion of the board, equivalent in every respect to Indiana's examination requirements at the time it was taken.

(d) Endorsement from states requiring the USMLE or COMLEX-USA for licensure will be honored if the examination requirements of the other state are equivalent to the requirements of section 12 or 13 of this rule.

(e) Licensure by endorsement may be granted to an applicant who obtained a license in another state before the FLEX, NBME, USMLE, or COMLEX-USA were used in that state if the applicant:

(1) took an examination equivalent in every respect to Indiana's examination requirements at the time it was taken in another state; and

(2) meets all of the other requirements of the board under IC 25-22.5 and this article.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-9; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30)*

#### **844 IAC 4-4.5-10 Requirements for taking the United States Medical Licensing Examination Step III**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 10. (a) In order to qualify to take Step III of the United States Medical Licensing Examination (USMLE), a graduate of a medical school in the United States, its possessions, or Canada must submit proof of the following:

(1) Completion of the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine and graduation from a medical school or osteopathic medical school approved by the board.

(2) Passage of both Steps I and II of the USMLE.

(3) Completion, or expected completion within six (6) months, of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the USMLE, a graduate of a medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

(1) Passage of both Steps I and II of the USMLE.

(2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.

(3) Certification by the Educational Commission on Foreign Medical Graduates.

(4) Passing such other examinations as may be required by the board.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-10; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)*

**844 IAC 4-4.5-11 Requirements for taking the Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination Step III**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 11. (a) In order to qualify to take Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA), a graduate of an osteopathic medical school in the United States, its possessions, or Canada must submit proof of the following:

- (1) Completion of the academic requirements for the degree of doctor of osteopathic medicine and graduation from an osteopathic medical school approved by the board.
- (2) Passage of both Steps I and II of the COMLEX-USA.
- (3) Completion of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the COMLEX-USA, a graduate of an osteopathic medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

- (1) Passage of both Steps I and II of the United States Medical Licensing Examination.
- (2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.
- (3) Certification by the Educational Commission on Foreign Medical Graduates.
- (4) Passing such other examinations as may be required by the board.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-11; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)*

**844 IAC 4-4.5-12 Passing requirements for United States Medical Licensing Examination**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 12. The following are the examination passing requirements for licensure:

- (1) A score of seventy-five (75) is the minimum passing score for all steps of the United States Medical Licensing Examination (USMLE).
- (2) An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the exam, the applicant must obtain a passing score.
- (3) All steps of the USMLE must be taken and successfully passed within a ten (10) year time period. This ten (10) year period begins when the applicant first passes a step, either Step I or Step II. In counting the number of attempts regarding USMLE steps, previous attempts on the National Board Medical Examination and the examination of the Federation of State Medical Boards of the United States are included.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-12; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31; filed Jun 7, 2004, 4:15 p.m.: 27 IR3072; filed Jun 10, 2008, 9:46 a.m.: 20080709-IR-844070723FRA)*

**844 IAC 4-4.5-13 Passing requirements for Comprehensive Osteopathic Medical Licensing Examination**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 13. The following are the examination passing requirements for licensure:

(1) A score of three hundred fifty (350) is the minimum passing score for Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).

(2) An applicant may have a maximum of five (5) attempts to pass each step of the COMLEX-USA. Therefore, upon the fifth seating of each step of the exam, the applicant must obtain a passing score.

(3) All steps of the COMLEX-USA must be taken and passed in sequential order within a seven (7) year time period. This seven (7) year period begins when the applicant first takes Step I. In counting the number of attempts regarding COMLEX-USA steps, previous attempts on the National Board Osteopathic Medical Examination are included.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-13; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)*

**844 IAC 4-4.5-14 Temporary permits for endorsement applicants**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-8-2; IC 25-22.5-5-2

Sec. 14. (a) An applicant seeking a temporary permit to practice medicine or osteopathic medicine based upon licensure in another state of the United States, its possessions, or Canada shall file an application for licensure and a temporary permit on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a temporary medical permit shall submit the following:

(1) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application.

(2) Proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state of the United States, its possessions, or Canada.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in effect for a period not to exceed ninety (90) days.

(e) If the application for licensure under IC 25-22.5-5-2 is denied, the temporary permit becomes null and void immediately upon denial.

(f) If an extension of the temporary permit past ninety (90) days is required due to an incomplete license application file, the request for an extension of time must be submitted in writing (via letter, facsimile transmission, or electronic mail transmission) to the director of the board and received prior to the expiration date of the temporary medical permit.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-14; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)*

**844 IAC 4-4.5-15 Temporary medical permits for postgraduate training**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 15. (a) A temporary medical permit issued for postgraduate medical education or training shall include internships, transitional programs, residency training, or other postgraduate medical education in a medical institution or hospital located in Indiana that meets the requirements of section 4 of this rule. A temporary medical permit for postgraduate training may be issued to a person who has:

(1) completed the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine from a medical school or osteopathic medical school approved by the board;

(2) submitted an application for a temporary medical permit;

(3) submitted one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application;

(4) paid the nonrefundable fee specified in 844 IAC 4-2-2; and

(5) provided documented evidence of acceptance into a postgraduate medical education or training program located in Indiana which meets the requirements of section 4 of this rule.

(b) Graduates of a school outside of the United States, its possessions, or Canada must submit proof of certification by the Educational Commission on Foreign Medical Graduates.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in force and effect for a period of one (1) year. A temporary medical permit issued under this section may be renewed for an additional one (1) year period, provided that the applicant submits an application and pays the nonrefundable fee. Temporary medical permits issued under this section to persons having passed Steps I and II of the United States Medical Licensing Examination (USMLE) or Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination (COMLEX-USA), and who have failed Step III of the USMLE or the COMLEX-USA may be renewed and reissued to the applicant, at the discretion of the board.

(e) After seven (7) years expires from the date when the applicant first took a step of the USMLE or the COMLEX-USA, the temporary permit becomes invalid without further action of the board and cannot be renewed.

(f) A temporary medical permit issued under this section shall limit the applicant's practice of medicine or osteopathic medicine to the postgraduate medical education or training program in a medical education institution or hospital in Indiana approved by the board in which the applicant is employed, assigned, or enrolled, which limitation shall be stated on the face of the temporary medical permit.

(g) If training will occur in more than one (1) facility, the applicant must submit with the application for a temporary medical permit identifying information for each facility in which training will occur.

(h) A person issued a temporary medical permit under this section shall not accept, receive, or otherwise be employed or engaged in any employment as a physician unless approved by, or otherwise made a part or adjunct of, the applicant's postgraduate medical education or training program.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-15; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)*

#### **844 IAC 4-4.5-16 Temporary medical permits for teaching in an accredited medical school**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 16. (a) A medical educational institution located in Indiana may apply for a temporary medical permit for teaching for a practitioner in the active practice of medicine outside of Indiana or the United States, but who is not licensed in Indiana, to teach medicine in the institution. The institution and the practitioner shall file an application, which shall include the following:

- (1) Documentation certifying the person's professional qualifications.
- (2) The term of the teaching appointment.
- (3) The medical subjects to be taught.
- (4) One (1) recent passport-type photograph of the person, taken within eight (8) weeks prior to filing the application.
- (5) The nonrefundable fee specified in 844 IAC 4-2-2.

(b) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(c) A temporary medical teaching permit issued under this section shall authorize the practitioner to teach medicine in the institution for a stated period not to exceed one (1) year.

(d) The temporary medical teaching permit must be kept in the possession of the institution and surrendered by it to the board for cancellation within thirty (30) days after the practitioner has ceased teaching in the institution.

(e) The permit authorizes the practitioner to practice in the institution only and, in the course of teaching, to practice those medical or

osteopathic medical acts as are usually and customarily performed by a physician teaching in a medical educational institution, but does not authorize the practitioner to practice medicine or osteopathic medicine otherwise.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-16; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33)*

#### **844 IAC 4-4.5-17 Limited scope temporary medical permits**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 17. (a) A person not currently licensed to practice medicine in Indiana, yet licensed to practice medicine or osteopathic medicine by any board or licensing agency of any state or jurisdiction may make application for a limited scope temporary medical permit that, if issued under this section, shall remain valid for a nonrenewable period not to exceed thirty (30) days.

(b) A person seeking a limited scope temporary medical permit under this section shall do the following:

(1) Complete an application form supplied by the board, specifying the following:

(A) The reasons for seeking a temporary medical permit.

(B) The location or locations where the applicant will provide medical services.

(C) The type, extent, and specialization of medical services that the applicant intends to, or may, provide.

(D) The activity, organization, function, or event with regard to which the applicant may provide medical services.

(2) The applicant's residence and office addresses and phone numbers.

(3) Pay to the board the nonrefundable fee specified by 844 IAC 4-2-2, at the time the application for temporary medical permit is filed.

(4) Submit one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application, simultaneously with filing the application for a temporary medical permit.

(5) Submit proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state or jurisdiction.

(6) Submit a certified copy of the original medical school or osteopathic medical school diploma. The following requirements apply in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board may accept, in lieu of a diploma or certified copy thereof, other types of evidence, which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) Temporary medical permits issued under this section shall be limited to a specific activity, function, series of events, or purpose, and to a specific geographical area within the state, which limitations shall be stated on the temporary medical permit.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-17; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33)*

**844 IAC 4-4.5-18 Temporary medical permits; discipline****Authority:** IC 25-22.5-2-7**Affected:** IC 25-1-9; IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 18. A temporary medical permit issued under this rule may be sanctioned for failure to comply with, or otherwise satisfy, the provisions of IC 25-22.5 or IC 25-1-9.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-18; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

**844 IAC 4-4.5-19 Notice of address change****Authority:** IC 25-22.5-2-7**Affected:** IC 25-22.5-2-7

Sec. 19. (a) Every person issued a permit or license shall inform the board of the following in writing by mail, facsimile transmission, or electronic mail transmission:

(1) Each address where he or she is practicing medicine or osteopathic medicine within twenty (20) days after commencing such practice.

(2) All changes of address, including additional practice locations and residential addresses, or removals from such addresses within twenty (20) days of each such occurrence.

(b) Where the practitioner has more than one (1) address, the practitioner must notify the board which of the addresses is the practitioner's primary mailing address.

(c) A practitioner's failure to receive notification of licensure of permit renewal due to a failure to notify the board of a change of address shall not constitute an error on the part of the board nor shall it exonerate or otherwise excuse the practitioner from renewing such license or permit as required by law.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-19; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

**Rule 5. Preceptorships****844 IAC 4-5-1 Examination of foreign medical graduates (Repealed)**

Sec. 1. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

**844 IAC 4-5-2 Licensure requirements; foreign medical graduates (Repealed)**

Sec. 2. (Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)

**Rule 6. Renewal of Physicians' Licenses****844 IAC 4-6-1 Mandatory renewal; time****Authority:** IC 25-22.5-2-7**Affected:** IC 25-22.5

Sec. 1. Every physician holding a license issued by the medical licensing board of Indiana shall renew such license with the medical licensing board of Indiana biennially.

(Medical Licensing Board of Indiana; 844 IAC 4-6-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed May 13, 1987, 2:15 p.m.: 10 IR 2300; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)

**844 IAC 4-6-2 Mandatory renewal; notice (Repealed)**

Sec. 2. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

**844 IAC 4-6-2.1 Mandatory renewal; notice****Authority:** IC 25-22.5-2-7**Affected:** IC 25-22.5

Sec. 2.1. (a) On or before sixty (60) days prior to June 30 of odd-numbered years, the board, or its duly authorized agent, shall issue a notice of expiration to each holder of a license that the holder is required to renew the holder's license.

(b) This notice will be sent to the address of record. If the practitioner has moved since the last renewal and has not notified the board of the new address, the board is not responsible for the untimely renewal of said license or its subsequent denial.

(Medical Licensing Board of Indiana; 844 IAC 4-6-2.1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

**844 IAC 4-6-3 Mandatory renewal; oath****Authority:** IC 25-22.5-2-7**Affected:** IC 25-22.5

Sec. 3. Applications for all renewals must be made under oath or affirmation.

(Medical Licensing Board of Indiana; 844 IAC 4-6-3; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)

**844 IAC 4-6-4 Mandatory renewal; fees****Authority:** IC 25-22.5-2-7**Affected:** IC 25-1-8-2; IC 25-22.5-7

Sec. 4. Each licensee shall submit a fee as determined by the medical licensing board of Indiana for each year or fraction thereof, in the form as provided under IC 25-1-8-2(d) payable to the order of the health professions bureau.

(Medical Licensing Board of Indiana; 844 IAC 4-6-4; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)

**844 IAC 4-6-5 Delinquent renewal (Repealed)**

Sec. 5. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)

**844 IAC 4-6-6 Mandatory renewal; failure to register****Authority:** IC 25-22.5-2-7**Affected:** IC 25-22.5

Sec. 6. Upon the failure of any licensee to renew their license with the medical licensing board of Indiana by September 1 of each biennium, the medical licensing board of Indiana shall forthwith enter an order suspending the physician's license to practice medicine in the state of Indiana. Such order shall become effective ten (10) days from the entry thereof. A copy, thereof, shall be served upon the licensee by certified mail at the last address provided by the licensee to the medical licensing board of Indiana.

(Medical Licensing Board of Indiana; 844 IAC 4-6-6; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)

**844 IAC 4-6-7 Practice after suspension****Authority:** IC 25-22.5-2-7**Affected:** IC 25-22.5

Sec. 7. No physician shall engage in the practice of medicine in Indiana after the effective date of an order suspending the physician's license to practice.

(Medical Licensing Board of Indiana; 844 IAC 4-6-7; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)

**844 IAC 4-6-8 Reinstatement after delinquent renewal of license (Repealed)**

Sec. 8. (Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)



#### **844 IAC 4-6-9 Inactive status**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 9. Any physician who has retired from practice and wants to retain his or her license may do so for half of the usual registration fee as given in 844 IAC 4-2-1, provided that he or she does not maintain an office for the practice of medicine and does not charge for any medical services that he or she might render. A physician whose license is inactive may submit a written request to the medical licensing board of Indiana to reactivate his or her license by paying the full renewal fee.

*(Medical Licensing Board of Indiana; 844 IAC 4-6-9; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)*

#### **844 IAC 4-6-10 Probation, suspension, or revocation**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 10. The willful performance of an act likely to deceive or harm the public shall include, but not be limited to, the following acts:

- (1) Aiding or abetting a person to practice medicine without a license.
- (2) Presigning prescriptions.
- (3) Prescribing or administering a drug for other than generally accepted therapeutic purposes.
- (4) Negligence in the practice of medicine.
- (5) False, deceptive, or misleading advertising.
- (6) Fraudulent practice of billing a patient or third party payer for services not rendered.

*(Medical Licensing Board of Indiana; 844 IAC 4-6-10; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076; readopted filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732)*

#### **Rule 7. SPEX Examination**

##### **844 IAC 4-7-1 "SPEX" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 1. (a) "SPEX" refers to the special purpose examination.

(b) SPEX is an objective and standardized cognitive examination designed to assist the medical licensing board of Indiana in the assessment of general, undifferentiated medical practice by physicians or osteopathic physicians who hold or have held a valid license in a United States or Canadian jurisdiction.

*(Medical Licensing Board of Indiana; 844 IAC 4-7-1; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

##### **844 IAC 4-7-2 Purpose of SPEX**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 2. SPEX is offered by the medical licensing board of Indiana for reexamination of selected physicians, designated by the medical licensing board of Indiana, who may need to demonstrate to the medical licensing board of Indiana current medical knowledge due to, but not limited to, the following:

- (1) Physicians or osteopathic physicians seeking licensure reinstatement or reactivation under IC 25-1-9-11, IC 25-22.5-6-1(a), and IC 25-22.5-7-1(c), after some period of professional inactivity.
- (2) Applicants who are some years beyond initial examination and either are applicants by endorsement or are applicants who have not previously been licensed in Indiana.

*(Medical Licensing Board of Indiana; 844 IAC 4-7-2; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

##### **844 IAC 4-7-3 Requirements to take SPEX**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 3. An applicant wishing to take the SPEX examination must:

- (1) complete an application as prescribed by the medical licensing board of Indiana;
- (2) pay the applicant's cost of purchasing the examination payable to the examination service; and
- (3) submit an application to the Federation of State Medical Boards at least forty-two (42) days prior to the administration date of the examination.

*(Medical Licensing Board of Indiana; 844 IAC 4-7-3; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

##### **844 IAC 4-7-4 SPEX passing score**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 4. (a) A score of seventy-five (75) is the minimum passing score on the SPEX.

(b) SPEX scores will be reported directly to the medical licensing board of Indiana. The medical licensing board of Indiana will notify all applicants of their test scores.

*(Medical Licensing Board of Indiana; 844 IAC 4-7-4; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

##### **844 IAC 4-7-5 Examination dates (Repealed)**

Sec. 5. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

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## **ARTICLE 5. STANDARDS OF PROFESSIONAL CONDUCT AND COMPETENT PRACTICE OF MEDICINE**

### **Rule 1. General Provisions**

#### **844 IAC 5-1-1 Definitions**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 16-18-2-199; IC 16-42-19-5; IC 25-1-9; IC 25-10; IC 25-13; IC 25-14; IC 25-20; IC 25-20.5-1-7; IC 25-23; IC 25-23.5; IC 25-23.6; IC 25-24; IC 25-26-13-17; IC 25-27; IC 25-27.5; IC 25-29; IC 25-33; IC 25-34.5; IC 25-35.6; IC 35-48-1-9; IC 35-48-2

Sec. 1. For purposes of this article and IC 25-1-9, the following definitions apply:

- (1) "Addict" means a person who is physiologically and/or psychologically dependent upon a drug that is classified as a narcotic, controlled substance, or dangerous drug.
- (2) "Classified as a narcotic" means any substance that is designated as a controlled substance under IC 35-48-1 or IC 35-48-2, or so classified in any subsequent amendment or revision of said statutes.
- (3) "Controlled substance" has the same meaning set forth in IC 35-48-1-9.
- (4) "Dangerous drug" means any substance that is designated as a controlled substance under IC 35-48-1 or IC 35-48-2, or so classified in any subsequent amendment or revision of said statute.
- (5) "General health information site" means a noninteractive Internet site that is accessible by anyone with access to the Internet and intended to provide general, user nonspecific information or advice

about maintaining health or the treatment of an acute or chronic illness, health condition, or disease state.

(6) "Habitue" means a person who:

- (A) is physiologically and/or psychologically dependent upon any narcotic drug classified as a narcotic, dangerous drug, or controlled substance under Indiana law; or
- (B) consumes, on a regular basis and without any medically justifiable purpose, a narcotic drug classified as a narcotic, dangerous drug, or controlled substance under Indiana law, whether or not such person has developed a physiological or psychological dependence upon such substance.

(7) "Institutional setting" means any health care facility whose primary purpose is to provide a physical environment for patients to obtain health care services, except those places where practitioners, as defined by IC 16-42-19-5, who are duly licensed, engage in private practice and pharmacies licensed under IC 25-26-13-17.

(8) "Internet medical practice site" means a patient-specific Internet site, access to which is limited to licensed physicians, associated medical personnel, and patients.

(9) "Internet site" means an electronic source of health information content, commerce, connectivity, and/or service delivery.

(10) "Legend drug" has the meaning set forth in IC 16-18-2-199.

(11) "Passive tracking mechanism" means a persistent electronic file used to track Internet site navigation, which allows the Internet site to record and retain user-specific navigation information whenever the user accesses the Internet site. Examples include:

- (A) cookies;
- (B) clear.gifs; or
- (C) Web bugs.

(12) "Personal health information" means any information, whether oral or recorded in any form or medium, that:

- (A) is created or received by a physician or other health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- (B) relates to the:
  - (i) past, present, or future physical or mental health or condition of an individual;
  - (ii) provision of health care to an individual; or
  - (iii) past, present, or future payment for the provision of health care to an individual.

(13) "Physician-patient e-mail" means computer-based communication between physicians or associated medical personnel and patients within a professional relationship in which the physician has taken on an explicit measure of responsibility for the patient's care.

(14) "Practitioner" means a person who holds an unlimited license to practice medicine or osteopathic medicine in Indiana or a limited license or permit as may be issued by the board.

(15) "Professional incompetence" may include, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality.

(16) "Specific professional health care provider" means any person who holds a specific license to practice in an area of health care in Indiana, including, but not limited to, the following persons:

- (A) Any chiropractor licensed under IC 25-10.
- (B) Any dental hygienist licensed under IC 25-13.
- (C) Any dentist licensed under IC 25-14.
- (D) Any hearing aid dealer licensed under IC 25-20.
- (E) Any nurse licensed under IC 25-23.
- (F) Any optometrist licensed under IC 25-24.
- (G) Any pharmacist licensed under IC 25-26.
- (H) Any physical therapist licensed under IC 25-27.

(I) Any podiatrist licensed under IC 25-29.

(J) Any psychologist licensed under IC 25-33.

(K) Any speech pathologist or audiologist licensed under IC 25-35.6.

(L) Any respiratory care practitioner certified under IC 25-34.5.

(M) Any occupational therapist certified under IC 25-23.5.

(N) Any clinical social worker, marriage and family therapist, or mental health counselor licensed under IC 25-23.6.

(O) Any physician assistant certified under IC 25-27.5.

(P) Any hypnotist certified under IC 25-20.5-1-7.

*(Medical Licensing Board of Indiana; 844 IAC 5-1-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1522; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 1, 2003, 9:32 a.m.: 27 IR 521)*

#### **844 IAC 5-1-2 Standards of professional conduct (Repealed)**

*Sec. 2. (Repealed by Medical Licensing Board of Indiana; filed Nov 30, 1990, 4:15 p.m.: 14 IR 755; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

#### **844 IAC 5-1-3 Disciplinary action**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9

Sec. 3. Failure to comply with this article may result in disciplinary proceedings against the offending practitioners. Further, all practitioners licensed in Indiana shall be responsible for having knowledge of the standards of conduct and practice established by statute and rule pursuant to IC 25-22.5-2-7.

*(Medical Licensing Board of Indiana; 844 IAC 5-1-3; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1526; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 1, 2003, 9:32 a.m.: 27 IR 522)*

### **Rule 2. Standards of Professional Conduct**

#### **844 IAC 5-2-1 Applicability**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 1. A practitioner in the conduct of his/her practice of medicine or osteopathic medicine shall abide by, and comply with, the standards of professional conduct in this rule.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-1; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-2 Confidentiality**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 2. A practitioner shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment, and prognosis, and of all records relating thereto, about which the practitioner may learn or otherwise be informed during the course of, or as a result of, the patient-practitioner relationship. Information about a patient shall be disclosed by a practitioner when required by law, including, but not limited to, the requirements of IC 34-4-12.6-1 [IC 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.] and of IC 16-4-8-1, and any amendments thereto, or when authorized by the patient or those responsible for the patient's care.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-2; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-3 Information to patient**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 3. A practitioner shall give a truthful, candid, and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where a practitioner reasonably determines that the information is or would be detrimental to the physical or mental health of the patient, or in the case of a minor or incompetent person, except where a practitioner reasonably determines that the information is or would be detrimental to the physical or mental health of those persons responsible for the patient's care.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-3; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-4 Case withdrawal**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) The practitioner shall give reasonable written notice to a patient or to those responsible for the patient's care when the practitioner withdraws from a case so that another practitioner may be employed by the patient or by those responsible for the patient's care. A practitioner shall not abandon a patient.

(b) A practitioner who withdraws from a case, except in emergency circumstances, shall, upon written request and in conformity with the provisions of IC 16-4-8-1 through IC 16-4-8-11 and of any subsequent amendment or revision thereof, make available to his/her patient or to those responsible for the patient's care, and to any other practitioner or specific professional health care provider employed by the patient, or by those responsible for the patient's care, all records, test results, histories, x-rays, radiographic studies, diagnoses, files, and information relating to said patient which are in the practitioner's custody, possession, or control, or copies of such documents hereinbefore described.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-4; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-5 Reasonable care**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 5. A practitioner shall exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-5; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-6 Degree basis for licensing**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 6. A practitioner shall not represent, advertise, state, or indicate the possession of any degree recognized as the basis for licensure to practice medicine or osteopathic medicine unless the practitioner is actually licensed on the basis of such degree in the state(s) in which he/she practices.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-6; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-7 Consultations; referrals**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 7. A practitioner shall make reasonable efforts to obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care. Further, the practitioner shall refer a patient to another practitioner in any case where the referring practitioner does not consider himself/herself qualified to treat the patient, and may refer the patient to another practitioner where the referring practitioner is unable to diagnose the illness or disease of the patient.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-7; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-8 Peer reviews**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 8. (a) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same licenses has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of medicine or osteopathic medicine shall promptly report such conduct to a peer review or similar body, as defined in IC 34-4-12.6-1(c) [IC 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.], having jurisdiction over the offending practitioner and the matter.

This provision does not prohibit a practitioner from promptly reporting said conduct directly to the medical licensing board. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of medicine or osteopathic medicine shall promptly report such conduct to the medical licensing board.

(b) A practitioner who voluntarily submits himself/herself to, or is otherwise undergoing a course of, treatment for addiction, severe dependency upon alcohol or other drugs or controlled substances, or for psychiatric impairment, where such treatment is sponsored or supervised by an impaired physicians' committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired physicians' committee of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection (a) or to the medical licensing board for so long as:

(1) the practitioner is complying with the course of treatment; and

(2) the practitioner is making satisfactory progress.

(c) If the practitioner fails to comply with, or is not benefitted by, the course of treatment, the practitioner-chief administrative officer, his designee, or any member of the impaired physicians' committee shall promptly report such facts and circumstances to the medical licensing board. This section shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the medical licensing board from taking such action as it deems appropriate or as may otherwise be provided by law.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-8; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-9 Fees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 9. (a) Fees charged by a practitioner for his/her professional services shall be reasonable and shall reasonably compensate the practitioner only for services actually rendered.

(b) A practitioner shall not enter into agreement for, charge, or collect an illegal or clearly excessive fee.

(c) Factors to be considered in determining the reasonableness of a fee include, but are not limited to, the following:

(1) The difficulty and/or uniqueness of the services performed and the time, skill, and experience required.

- (2) The fee customarily charged in the locality for similar practitioner services.
- (3) The amount of the charges involved.
- (4) The quality of performance.
- (5) The nature and length of the professional relationship with the patient.
- (6) The experience, reputation, and ability of the practitioner in performing the kind of services involved.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-9; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-10 Fee division**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 10. A practitioner shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

- (1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made; and
- (2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-10; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-11 Referral fees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 11. A practitioner shall not pay, demand, or receive compensation for referral of a patient, except for a patient referral program operated by a medical society or association which is approved by the medical licensing board.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-11; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-12 Employees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 12. A practitioner shall be responsible for the conduct of each and every person employed by the practitioner (whether such employee is a physician, nurse, physician's assistant, or other specific professional health care provider employed by the practitioner) for every action or failure to act by said employee or employees in the course of said employee's employment relationship with said practitioner, provided, however, that a practitioner shall not be responsible for the actions of persons he/she may employ whose employment by the practitioner does not relate directly to the practitioner's practice of medicine or of osteopathic medicine.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-12; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-13 Advertising**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 13. (a) A practitioner shall not, on behalf of himself/herself, a partner, associate, shareholder in a professional corporation, or any other practitioner or specific health care provider affiliated with the practitioner, use, or participate in the use of, any form of public communication containing a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(b) Subject to the requirements of subsection (a), and in order to facilitate the process of informed selection of a practitioner by the public, a practitioner may advertise services through the public media including, but not limited to, a telephone directory, physicians' or osteopaths' directory, newspaper or other periodical, radio or television, or through written communication not involving personal contact, provided that the advertisement is dignified and confines itself to the existence, scope, nature, and field of practice of the practitioner.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the practitioner, and a recording and transcript of the actual transmission shall be retained by the practitioner for a period of five (5) years from the last date of broadcast.

(d) If a practitioner advertises a fee for a service, treatment, consultation, examination, radiographic study, or other procedure, the practitioner must render that service or procedure for no more than the fee advertised.

(e) Unless otherwise specified in the advertisement, if a practitioner publishes or communicates any fee information in a publication that is published more frequently than one (1) time per month, the practitioner shall be bound by any representation made therein for a period of thirty (30) days after the publication date. If a practitioner publishes or communicates any fee information in a publication that is published once a month or less frequently, the practitioner shall be bound by any representation made therein until the publication of the succeeding issue. If a practitioner publishes or communicates any fee information in a publication which has no fixed date for publication of a succeeding issue, the practitioner shall be bound by any representation made therein for one (1) year.

(f) Unless otherwise specified, if a practitioner broadcasts any fee information by radio, cable, or television, the practitioner shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) Except as otherwise specified in this article, a practitioner shall not contact or solicit individual members of the public personally or through an agent in order to offer services to such person or persons unless that individual initiated contact with the practitioner for the purpose of engaging that practitioner's professional services.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-13; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-14 Referrals**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 14. A practitioner may, whenever the practitioner believes it to be beneficial to the patient, send or refer a patient to a qualified specific professional health care provider for treatment or health care which falls within the specific professional health care provider's scope of practice. Prior to any such referral, however, the practitioner shall examine, and/or consult with, the patient to ensure that a condition exists in the patient which would be within the scope of practice of the specific professional health care provider to whom the patient is referred or sent.

*(Medical Licensing Board of Indiana; 844 IAC 5-2-14; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; errata filed Feb 18, 1991, 3:55 p.m.: 14 IR 1457; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-15 Admitting patients**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 15. A practitioner shall not charge a separate and distinct fee for the incidental, administrative, nonmedical service of securing admission of a patient to a hospital or other medical or health care facility.

(Medical Licensing Board of Indiana; 844 IAC 5-2-15; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 5-2-16 Discontinuance of practice**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 16. (a) A practitioner, upon his/her retirement, or upon discontinuation of the practice of medicine or osteopathic medicine, or upon leaving or moving from a community, shall not sell, convey, or transfer for valuable consideration, remuneration, or for anything of value, patient records of that practitioner to any other practitioner.

(b) A practitioner, upon his/her retirement, or upon discontinuation of the practice of medicine or osteopathic medicine, or upon leaving or moving from a community, shall notify all of his/her active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that he/she intends to discontinue his/her practice of medicine or osteopathic medicine in the community, and shall encourage his/her patients to seek the services of another practitioner, provided, however, that this section shall not apply to practitioners solely engaged in internship, residency, preceptorship, fellowship, teaching, or other postgraduate medical education or training programs. The practitioner discontinuing his/her practice shall make reasonable arrangements with his/her active patients for the transfer of his/her records, or copies thereof, to the succeeding practitioner, or to a program conducted by a medical society or association approved by the medical licensing board.

(c) As used herein, "active patient" applies and refers to a person whom the practitioner has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to retirement, discontinuation of the practice of medicine or osteopathic medicine, or leaving or moving from a community.

(d) Nothing herein provided shall preclude, prohibit, or prevent a practitioner from conveying or transferring the practitioner's patient records to another practitioner, holding an unlimited license to practice medicine or osteopathic medicine, who is assuming a practice, provided that written notice is furnished to all patients as hereinbefore specified. (Medical Licensing Board of Indiana; 844 IAC 5-2-16; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 5-2-17 Contingency fees prohibited**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 17. A practitioner shall not base his fee upon the uncertain outcome of a contingency, whether such contingency be the outcome of litigation or any other occurrence or condition which may or may not develop, occur, or happen.

(Medical Licensing Board of Indiana; 844 IAC 5-2-17; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 5-2-18 Liability to patients**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 18. A practitioner shall not attempt to exonerate himself from or limit his liability to a patient for his/her personal malpractice except that a practitioner may enter into agreements which contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care.

(Medical Licensing Board of Indiana; 844 IAC 5-2-18; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 5-2-19 Patient complaints**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 19. A practitioner shall not attempt to preclude, prohibit, or otherwise prevent the filing of a complaint against him/her by a patient or other practitioner for any alleged violation of this title or of any alleged violation of IC 25-22.5-1, or any other law.

(Medical Licensing Board of Indiana; 844 IAC 5-2-19; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 5-2-20 Schedule II controlled substances**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1; IC 35-48-2-6

Sec. 20. A physician shall not utilize, prescribe, order, dispense, administer, supply, sell, or give any amphetamine, sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to the provisions of IC 35-48-2-6 to any person for purposes of weight reduction or for control in the treatment of obesity. (Medical Licensing Board of Indiana; 844 IAC 5-2-20; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 5-2-21 Schedule III or IV controlled substances (Voided)**

Sec. 21. (Voided by P.L.177-1997, SECTION 14, effective July 1, 1997.)

#### **844 IAC 5-2-22 Use of term, "board certified"**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 22. A practitioner shall not represent in any manner that he or she is "board certified" or use any similar words or phrase calculated to convey the same unless the practitioner states by which board he/she is certified and the specific field or area of certification.

(Medical Licensing Board of Indiana; 844 IAC 5-2-22; filed Nov 30, 1990, 4:15 p.m.: 14 IR 755; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

### **Rule 3. Appropriate Use of the Internet in Medical Practice**

#### **844 IAC 5-3-1 General provisions**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 1. A practitioner shall comply with this article when utilizing the Internet in the delivery of patient care.

(Medical Licensing Board of Indiana; 844 IAC 5-3-1; filed Oct 1, 2003, 9:32 a.m.: 27 IR 522)

#### **844 IAC 5-3-2 Evaluation of the patient**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 2. A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to the treatment recommended or provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise.

(Medical Licensing Board of Indiana; 844 IAC 5-3-2; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523)

#### **844 IAC 5-3-3 Treatment**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 3. Treatment, including issuing a prescription, based solely on an on-line questionnaire or consultation is prohibited.

(Medical Licensing Board of Indiana; 844 IAC 5-3-3; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523)

#### **844 IAC 5-3-4 Electronic communications**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 4. (a) Written policies and procedures must be maintained by the physician for the use of patient-physician electronic mail. Such policies and procedures must address the following:

- (1) Privacy.
- (2) Health care personnel (in addition to the physician addressee) who will process messages.
- (3) Hours of operation.
- (4) Types of transactions that will be permitted electronically.
- (5) Required patient information to be included in the communication, such as patient name, identification number, and type of transaction.
- (6) Archival and retrieval of patient medical data.
- (7) Quality oversight mechanisms.
- (8) Protocol to be followed in emergency situations.

(b) Policies and procedures must be periodically evaluated for currency and maintained in an accessible and readily available manner for review.

(c) Sufficient security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology, that is, password protected, encrypted electronic prescriptions, or other reliable authentication techniques.

(d) Patient-physician e-mail pertinent to the ongoing care of the patient, as well as other patient-related electronic communications, must be maintained as part of, and integrated into, the patient's medical record, whether that record is paper or electronic.

(e) Turnaround time shall be established for patient-physician e-mail and medical practice sites must clearly indicate alternative form or forms of communication for urgent matters.

(f) E-mail systems must be configured to include an automatic reply to acknowledge message delivery and that messages have been read. Patients must be encouraged to confirm that they have received and read messages.

(Medical Licensing Board of Indiana; 844 IAC 5-3-4; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523)

#### **844 IAC 5-3-5 Informed consent**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 5. A written agreement must be employed documenting patient informed consent for the use of patient-physician e-mail. The agreement must be discussed with and signed by the patient and included in the medical record. The agreement must include the following terms:

- (1) Types of transmissions that will be permitted, such as:
  - (A) prescription refills;
  - (B) appointment scheduling; and
  - (C) patient education.
- (2) Fees, if any, that will be assessed for on-line consultations or other electronic communication.
- (3) Under what circumstances alternate forms of communication or office visits must be utilized.
- (4) A statement that physician-patient e-mail is not to be used in emergency situations.
- (5) Instructions on what steps the patient should take in an emergency situation.
- (6) Security measures, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy.

(7) Hold harmless clause for information lost due to technical failures.

(8) Requirement for express patient consent to forward patient-identifiable information to a third party.

(9) Patient's failure to comply with the agreement may result in physician terminating the e-mail relationship.

(Medical Licensing Board of Indiana; 844 IAC 5-3-5; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523)

#### **844 IAC 5-3-6 Medical records**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 6. (a) The medical record must include written or electronic copies of all patient-related electronic communications, including the following:

- (1) Patient-physician e-mail.
- (2) Prescriptions.
- (3) Laboratory and test results.
- (4) Evaluations and consultations.
- (5) Records of past care.
- (6) Instructions.

Informed consent agreements related to the use of e-mail shall also be filed in the medical record.

(b) Patient medical records must remain current and accessible for review and be maintained in compliance with applicable state and federal requirements.

(Medical Licensing Board of Indiana; 844 IAC 5-3-6; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523)

#### **844 IAC 5-3-7 Disclosure**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 7. (a) An interactive Internet medical practice site is a practice location and requires a defined physician-patient relationship.

(b) Internet medical practice sites must clearly disclose the following:

- (1) The owner of the site.
- (2) The specific services provided.
- (3) The office address and contact information for the medical practice.
- (4) Licensure and qualifications of the physician or physicians and associated health care providers.
- (5) Fees for on-line consultation and services and how payment is to be made.
- (6) Financial interests in any information, products, or services.
- (7) Appropriate uses and limitations of the site, including providing health advice and emergency health situations.
- (8) Uses and response times for e-mails, electronic messages, and other communications transmitted via the site.
- (9) To whom patient health information may be disclosed and for what purpose.
- (10) Rights of patients with respect to patient health information.
- (11) Information collected and any passive tracking mechanisms utilized.

(Medical Licensing Board of Indiana; 844 IAC 5-3-7; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524)

#### **844 IAC 5-3-8 Accountability**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 8. Medical practice sites must provide patients a clear mechanism to do the following:

- (1) Access, supplement, and amend patient-provided personal health information.
- (2) Provide feedback regarding the site and the quality of information and services.

(3) Register complaints, including information regarding filing a complaint with the consumer protection division of the office of the attorney general.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-8; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524)*

#### **844 IAC 5-3-9 Advertising or promotion of goods or products**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 9. Advertising or promotion of goods or products from which the physician receives direct remuneration, benefits, or incentives is prohibited unless the physician discloses that the physician receives direct remuneration, benefits, or incentives from the sale of the goods or products.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-9; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524)*

#### **844 IAC 5-3-10 Links**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5

Sec. 10. Practitioner Internet sites may provide links to general health information sites to enhance patient education; however, the physician shall not receive direct remuneration, benefits, or incentives from providing such links or from the services or products marketed by such links unless the physician discloses that the physician receives direct remuneration, benefits, or incentives from providing such links or from the services or products marketed by such links.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-10; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524)*

### **Rule 4. Prescribing to Persons Not Seen by the Physician**

#### **844 IAC 5-4-1 General provisions**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1-2; IC 25-23-1-19.4

Sec. 1. (a) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with standard care arrangements, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.

(b) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with the requirements of IC 25-23-1-19.4 and 848 IAC 5, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any legend drug that is not a controlled substance to a person who the physician has never personally physically examined and diagnosed unless the physician is providing care in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient's use of the drug or drugs to be provided.

(c) A physician shall not advertise or offer, or permit the physician's name or certificate to be used in an advertisement or offer, to provide any legend drug in a manner that would violate subsection (a) or (b).

(d) Subsections (a) and (b) do not apply to or prohibit the following:

- (1) The provision of drugs to a person who is admitted as an inpatient to or is a resident of an institutional facility.
- (2) The provision of controlled substances or legend drugs by a physician to a person who is a patient of a colleague of the physician, if the drugs are provided pursuant to an on-call or cross-coverage arrangement between the physicians.

(3) The provision of controlled substances or legend drugs by emergency medical squad personnel, nurses, or other appropriately trained and licensed individuals as permitted by IC 25-22.5-1-2.

(4) The provision of controlled substances or drugs by an advanced practice nurse with prescriptive authority practicing in accordance with a standard care arrangement that meets the requirements of IC 25-23-1-19.4 and 848 IAC 5.

*(Medical Licensing Board of Indiana; 844 IAC 5-4-1; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; errata filed Oct 8, 2003, 1:45 p.m.: 27 IR 538)*

### **Rule 5. Standards for Procedures Performed in Office-Based Settings That Require Moderate Sedation/Analgesia, Deep Sedation/Analgesia, General Anesthesia, or Regional Anesthesia**

#### **844 IAC 5-5-1 Purpose**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 1. This rule establishes standards for procedures performed in office-based settings that require:

- (1) moderate sedation/analgesia;
- (2) deep sedation/analgesia;
- (3) general anesthesia; or
- (4) regional anesthesia.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-1; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-2 Application of rule**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 2. Except as provided in section 15 of this rule, this rule does not apply to:

- (1) local anesthesia;
- (2) topical anesthesia;
- (3) superficial nerve blocks; or
- (4) minimal sedation/anxiolysis.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-2; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-3 "Accreditation agency" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 3. As used in this rule, "accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to office-based settings by the board under this rule.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-3; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-4 "American Society of Anesthesiologists (ASA) Physical Status Classification System" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 4. As used in this rule, "American Society of Anesthesiologists (ASA) Physical Status Classification System" refers to the following classifications:

- (1) P1 - A normal healthy patient.
- (2) P2 - A patient with mild systemic disease.
- (3) P3 - A patient with severe systemic disease.
- (4) P4 - A patient with severe systemic disease that is a constant threat to life.
- (5) P5 - A moribund patient who is not expected to survive without the operation.
- (6) P6 - A declared brain-dead patient whose organs are being removed for donor purposes.

(Medical Licensing Board of Indiana; 844 IAC 5-5-4; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-5 "Anesthesia" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 5. As used in this rule, "anesthesia" includes the following:

- (1) Moderate sedation/analgesia.
- (2) Deep sedation/analgesia.
- (3) General anesthesia.
- (4) Regional anesthesia.

(Medical Licensing Board of Indiana; 844 IAC 5-5-5; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-6 "Deep sedation/analgesia" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 6. (a) As used in this rule, "deep sedation/analgesia" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. For purposes of this rule, reflex withdrawal from a painful stimulus is not considered a purposeful response.

(b) The following are conditions that a patient under deep sedation/analgesia may experience:

- (1) The ability to independently maintain ventilatory function may be impaired.
- (2) Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate.
- (3) Cardiovascular function is usually maintained.

(Medical Licensing Board of Indiana; 844 IAC 5-5-6; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-7 "General anesthesia" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 7. (a) As used in this rule, "general anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by pain stimulation.

(b) The following are conditions that a patient under general anesthesia may experience:

- (1) The ability to independently maintain ventilatory function is often impaired.
- (2) Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function.
- (3) Cardiovascular function may be impaired.

(Medical Licensing Board of Indiana; 844 IAC 5-5-7; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-8 "Health care provider" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 8. As used in this rule, "health care provider" means an individual licensed or legally authorized by this state to provide health care services.

(Medical Licensing Board of Indiana; 844 IAC 5-5-8; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-9 "Immediate presence" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 9. As used in this rule, "immediate presence" means, at a minimum, that the directing practitioner must be:

- (1) physically located within the office-based setting;
- (2) prepared to immediately conduct hands-on intervention if needed; and
- (3) not engaged in activities that could prevent the practitioner from being able to immediately intervene and conduct hands-on interventions if needed.

(Medical Licensing Board of Indiana; 844 IAC 5-5-9; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-10 "Local anesthesia" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 10. As used in this rule, "local anesthesia" means a transient and reversible loss of sensation in a circumscribed portion of the body produced by:

- (1) a local anesthetic agent; or
- (2) cooling a circumscribed area of the skin.

The term includes subcutaneous infiltration of an agent.

(Medical Licensing Board of Indiana; 844 IAC 5-5-10; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-11 "Minimal sedation/anxiolysis" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 11. As used in this rule, "minimal sedation/anxiolysis" means a drug-induced state during which a patient responds normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are usually not affected.

(Medical Licensing Board of Indiana; 844 IAC 5-5-11; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-12 "Moderate sedation/analgesia" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 12. (a) As used in this rule, "moderate sedation/analgesia" (also sometimes called "conscious sedation") means a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.

(b) The following are conditions that a patient under moderate sedation/analgesia may experience:

- (1) No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate.
- (2) Cardiovascular function is usually maintained.

(Medical Licensing Board of Indiana; 844 IAC 5-5-12; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-13 "Office-based setting" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 16-21-2; IC 25-22.5

Sec. 13. As used in this rule, "office-based setting" means any:

- (1) facility;
- (2) clinic;
- (3) center;
- (4) office; or
- (5) other setting;

where procedures are performed that require moderate sedation/analgesia, deep sedation/analgesia, general anesthesia, or regional anesthesia. The term does not include a hospital operated by the federal government or a setting licensed under IC 16-21-2 as a hospital, ambulatory surgical center, abortion clinic, or birthing center.

(Medical Licensing Board of Indiana; 844 IAC 5-5-13; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)



**844 IAC 5-5-14 "Practitioner" defined****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 14. As used in this rule, "practitioner" has the meaning set forth in 844 IAC 5-1-1(14).

(Medical Licensing Board of Indiana; 844 IAC 5-5-14; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-15 "Regional anesthesia" defined****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 15. (a) As used in this rule, "regional anesthesia" means the administration of anesthetic agents to a patient to interrupt nerve impulses without the loss of consciousness and includes the following:

(1) Major conduction blocks, such as:

- (A) epidural;
- (B) spinal; and
- (C) caudal;

blocks.

(2) Peripheral nerve blocks, such as:

- (A) brachial;
- (B) lumbar plexus;
- (C) peribulbar; and
- (D) retrobulbar;

blocks.

(3) Intravenous regional anesthesia, such as Bier blocks.

(b) Notwithstanding section 2 of this rule, a superficial nerve block or application of a local anesthetic agent in which the total dosage administered exceeds the recommended maximum dosage per body weight described in the manufacturer's package insert shall be considered regional anesthesia for purposes of this rule.

(Medical Licensing Board of Indiana; 844 IAC 5-5-15; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-16 "Rescue" defined****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 16. As used in this rule, "rescue" means an intervention by a practitioner proficient in airway management and advanced life support. In rescuing a patient, the practitioner must:

(1) correct adverse physiologic consequences of the deeper-than-intended level of sedation, such as:

- (A) hypoventilation;
- (B) hypoxia; and
- (C) hypotension; and

(2) return the patient to the originally intended level of sedation.

(Medical Licensing Board of Indiana; 844 IAC 5-5-16; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-17 "Superficial nerve block" defined****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 17. As used in this rule, "superficial nerve block" means an agent placed in the proximity of any nerve or group of nerves outside of the vertebral canal to produce a loss of sensation in an anatomic or circumscribed area. For purposes of this rule, the term is limited to:

- (1) ankle;
- (2) metacarpal;
- (3) digit; and
- (4) paracervical;

blocks.

(Medical Licensing Board of Indiana; 844 IAC 5-5-17; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-18 "Topical anesthesia" defined****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 18. As used in this rule, "topical anesthesia" means a transient and reversible loss of sensation to a circumscribed area produced by an anesthetic agent applied directly or by spray to the skin or mucous membranes.

(Medical Licensing Board of Indiana; 844 IAC 5-5-18; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-19 Standards for procedures performed in office-based settings****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 19. (a) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond.

Practitioners intending to produce a given level of sedation must be able to rescue a patient whose level of sedation becomes deeper than initially intended. Practitioners administering deep sedation/analgesia in an office-based setting, or directing or supervising the administration of deep sedation/analgesia in an office-based setting, must be able to rescue patients who enter a state of general anesthesia. Practitioners administering moderate sedation/analgesia in an office-based setting, or directing or supervising the administration of moderate sedation/analgesia in an office-based setting, must be able to rescue patients who enter a state of deep sedation/analgesia.

(b) Practitioners administering regional anesthesia, or supervising or directing the administration of regional anesthesia, must be knowledgeable about the risks of regional anesthesia and the interventions required to correct any adverse physiological consequences that may occur in the administration of regional anesthesia.

(c) A health care provider may not administer or monitor an anesthetic agent containing alkylphenols in an office-based setting unless the health care provider is:

- (1) trained in the administration of general anesthesia; and
- (2) not involved in the conduct of the procedure.

(Medical Licensing Board of Indiana; 844 IAC 5-5-19; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-20 Accreditation required****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5**

Sec. 20. After January 1, 2010, a practitioner may not perform or supervise a procedure that requires anesthesia in an officebased setting unless the office-based setting is accredited by an accreditation agency approved by the board under this rule.

(Medical Licensing Board of Indiana; 844 IAC 5-5-20; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)

**844 IAC 5-5-21 Approval of accreditation agencies; requirements****Authority: IC 25-22.5-2-7****Affected: IC 25-22.5-1-2**

Sec. 21. In approving accreditation agencies to perform accreditation of office-based settings, the board shall ensure that the certification program, at a minimum, includes standards for the following aspects of an office-based setting's operations:

(1) Anesthesia, as follows:

(A) The level of anesthesia administered shall be appropriate for the:

- (i) patient;
- (ii) procedure;
- (iii) clinical setting;

- (iv) education and training of the personnel; and
- (v) equipment available.

Practitioners shall select patients for procedures in office-based settings using anesthesia by criteria, including the American Society of Anesthesiologists (ASA) Physical Status Classification System, and so document.

(B) The choice of specific anesthetic agents and techniques shall focus on providing anesthesia that will:

- (i) be safe, effective, and appropriate; and
- (ii) respond to the specific needs of patients while also ensuring rapid recovery to normal function with appropriate efforts to control postoperative pain, nausea, or other side effects.

(C) A health care provider administering anesthesia shall be licensed, qualified, and working within the provider's scope of practice. In those cases in which a nonphysician provider administers the anesthesia, the provider must be:

- (i) under the direction and supervision of a practitioner as required by IC 25-22.5-1-2(a)(20); or
- (ii) under the direction of and in the immediate presence of a

practitioner as required by IC 25-22.5-1-2(a)(13), if the provider is a certified registered nurse anesthetist.

(D) A:

- (i) health care provider who administers anesthesia; and
  - (ii) practitioner who:
    - (AA) performs a procedure that requires anesthesia; or
    - (BB) directs or supervises the administration of anesthesia;
- in an office-based setting shall maintain current training in advanced resuscitation techniques, such as advanced cardiac life support (ACLS) or pediatric advanced life support (PALS), as applicable. At least one (1) person with ACLS or PALS training should be immediately available until the patient is discharged.

(E) In addition to the health care provider performing the procedure, sufficient numbers of qualified health care providers, each working within the individual provider's scope of practice, must be present to:

- (i) evaluate the patient;
- (ii) assist with the procedure;
- (iii) administer and monitor the anesthesia; and
- (iv) recover the patient.

Other health care providers involved in the delivery of procedures in an office-based setting that require anesthesia, at a minimum, shall maintain training in basic cardiopulmonary resuscitation.

(F) Patients who have preexisting medical or other conditions who may be at particular risk for complications shall be referred to:

- (i) a hospital;
- (ii) an ambulatory surgical center; or
- (iii) another office-based setting appropriate for the procedure

and the administration of anesthesia.

(G) The practitioner administering the anesthesia, or supervising or directing the administration of anesthesia as required by clause (C), shall do the following:

- (i) Perform a preanesthetic examination and evaluation or ensure that it has been appropriately performed by a qualified health care provider.
- (ii) Develop the anesthesia plan or personally review and concur with the anesthesia plan if the plan has been developed by a certified registered nurse anesthetist (CRNA).
- (iii) Remain physically present during the operative period and be immediately available until the patient is discharged from anesthesia care for diagnosis, treatment, and management of complications or emergencies.
- (iv) Assure provision of appropriate postanesthesia care.

(H) Patient assessment shall occur throughout the preprocedure, periprocedure, and postprocedure phases. The assessment shall:

- (i) address not only physical and functional status, but also physiological and cognitive status; and
- (ii) be documented in the medical record.

The procedure and anesthesia shall be properly documented in the medical record.

(I) Physiologic monitoring of patients shall be appropriate for the type of anesthesia and individual patient needs, including continuous monitoring or assessment of the following:

- (i) Ventilation.
- (ii) Cardiovascular status.
- (iii) Body temperature.
- (iv) Neuromuscular function and status.
- (v) Patient positioning.
- (vi) Oxygenation using a quantitative technique such as pulse oximetry.

When general anesthesia is used, equipment to assess exhaled carbon dioxide must also be available.

(J) Provisions shall be made for a reliable source of the following:

- (i) Oxygen.
- (ii) Suction.
- (iii) Resuscitation equipment.
- (iv) Emergency drugs.

(2) Procedures, as follows:

(A) Procedures shall be provided by qualified health care providers in an environment that promotes patient safety.

(B) Procedures to be undertaken shall be within the:

- (i) scope of practice, training, and expertise of the health care providers; and
- (ii) capabilities of the facilities.

(C) The procedure shall be of a duration and degree of complexity that will permit patients to recover and be discharged from the office-based setting in less than twenty-four (24) hours.

(D) Provisions shall be made for appropriate ancillary services on site or in another predetermined location. Ancillary services shall be provided in a safe and effective manner in accordance with accepted ethical professional practice and statutory requirements. These services include, but are not limited to:

- (i) pharmacy;
- (ii) laboratory;
- (iii) pathology;
- (iv) radiology;
- (v) occupational health; and
- (vi) other associated;

services.

(3) Facilities and equipment, as follows:

(A) The office-based setting shall:

- (i) be clean and properly maintained and have adequate lighting and ventilation;
- (ii) be equipped with the appropriate medical equipment, supplies, and pharmacological agents that are required in order to provide:

- (AA) anesthesia;
- (BB) recovery services;
- (CC) cardiopulmonary resuscitation; and
- (DD) other emergency services;

(iii) have:

- (AA) appropriate firefighting equipment;
- (BB) signage;
- (CC) emergency power capabilities and lighting; and
- (DD) an evacuation plan;

(iv) have the necessary:

- (AA) personnel;
- (BB) equipment; and
- (CC) procedures;

to handle medical and other emergencies that may arise in connection with services provided; and

(v) comply with:

(AA) applicable federal, state, and local laws and codes and regulations, and provisions must be made to accommodate disabled individuals in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(BB) federal and state laws and regulations regarding protection of the health and safety of employees.

(B) The space allocated for a particular function or service shall be adequate for the activities performed.

(C) In locations where anesthesia is administered, there shall be appropriate anesthesia apparatus and equipment to allow appropriate monitoring of patients. All equipment shall be maintained, tested, and inspected according to the manufacturer's specifications. Backup power sufficient to ensure patient protection in the event of an emergency shall be available. There shall be sufficient space to:

- (i) accommodate all necessary equipment and personnel; and
- (ii) allow for expeditious access to patients and all monitoring equipment.

(D) When anesthesia services are provided to infants and children, the required:

- (i) equipment;
- (ii) medications; and
- (iii) resuscitative capabilities;

shall be appropriately sized for children.

(E) All equipment used in patient care, testing, or emergency situations shall be inspected, maintained, and tested:

- (i) on a regular basis; and
- (ii) according to manufacturers' specifications.

(F) Appropriate emergency equipment and supplies shall be readily accessible to all patient service areas.

(G) Efforts shall be made to eliminate hazards that might lead to:

- (i) slipping;
- (ii) falling;
- (iii) electrical shock;
- (iv) burns;
- (v) poisoning; or
- (vi) other trauma.

(H) Procedures shall be implemented to:

- (i) minimize the sources and transmission of infections; and
- (ii) maintain a sanitary environment.

(I) A system shall be in place to:

- (i) identify;
- (ii) manage;
- (iii) handle;
- (iv) transport;
- (v) treat; and
- (vi) dispose of;

hazardous materials and wastes, whether solid, liquid, or gas.

(J) Smoking must be prohibited in all patient care areas.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-21; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-22 Practitioners requirements**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5

Sec. 22. (a) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, must have:

- (1) admitting privileges at a nearby hospital;
- (2) a transfer agreement with another practitioner who has admitting privileges at a nearby hospital; or

(3) an emergency transfer agreement with a nearby hospital.

(b) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall ensure that a patient's informed consent for the nature and objectives of the anesthesia planned and procedure to be performed is obtained in writing before the procedure is performed. The informed consent shall be:

(1) obtained after a discussion of the risks, benefits, and alternatives; and

(2) documented in the patient's medical record.

(c) Written procedures for credible peer review to determine the appropriateness of the following shall be established and reviewed at least annually:

(1) Clinical decision making.

(2) Overall quality of care.

(d) Agreements with local emergency medical service (EMS) shall be in place for purposes of transfer of patients to the hospital in case of an emergency. EMS agreements shall be re-signed at least annually.

(e) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall show competency by maintaining privileges at an accredited or licensed hospital or ambulatory surgical center, for the procedures they perform in the office-based setting. Alternatively, the governing body of the office-based setting is responsible for a peer review process for privileging practitioners based on nationally recognized credentialing standards.

(f) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall have appropriate education and training.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-22; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

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## **ARTICLE 7. REINSTATEMENT TO PRACTICE**

### **Rule 1. General Provisions**

#### **844 IAC 7-1-1 Evidence for reinstatement**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 1. No person whose license to practice medicine or osteopathic medicine, midwifery, or whose license as a podiatrist, physical therapist, physical therapist assistant, or whose registration and approval as a physician's assistant, has been suspended or revoked shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the medical licensing board that:

- (1) the person desires in good faith to obtain restoration of such license, registration or approval;
- (2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;
- (3) the person has not engaged in that practice for which that person was licensed, registered or approved, in this state or has attempted to do so from the date discipline was imposed;
- (4) the person has complied fully with the terms, if any, of the order for suspension or revocation;
- (5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;
- (6) the person has a proper understanding of an attitude towards the standards that are imposed by statute or rule upon persons holding such license, registration or approval as had been suspended or revoked and the person can be reasonably expected to conduct himself/herself in conformity with such standards;

- (7) the person can be safely recommended to the public and applicable professions as a person fit to be reinstated and is able to practice his/her profession with reasonable skill and safety to patients;
- (8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;
- (9) the person has successfully taken and completed such written examinations and tests as may be required by the medical licensing board, and has completed such professional training or education under a preceptorship as may be required.

*(Medical Licensing Board of Indiana; 844 IAC 7-1-1; filed Apr 12, 1984, 8:28 am: 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 7-1-2 Petitions for reinstatement**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33**

Sec 2. Any person whose license, registration or approval has been suspended or revoked may apply for reinstatement by filing with the medical licensing board a petition setting forth that the requirements of 844 IAC 7-1-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the medical licensing board, together with a filing fee of four hundred dollars (\$400).

Upon the filing of such petition and payment of the filing fee, the medical licensing board shall schedule a hearing. After the hearing the medical licensing board shall determine whether the petitioner has met the requirements set forth in 844 IAC 7-1-1, and shall determine whether, as a condition of reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The medical licensing board shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 7-1-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or revocation or reinstating a license, registration or approval to the petitioner.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the medical licensing board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the medical licensing board. In no event will there be any refund or rebate of any part of the filing fee.

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file ten (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the following form:

BEFORE THE MEDICAL LICENSING BOARD

IN THE MATTER OF:

Affidavit in Support of Motion to Proceed [nlel] Without Prepayment of Fees and Costs

I, \_\_\_\_\_, being first duly sworn, depose and say that I am the petitioner in the above-entitled cases; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present are the following:

(LIST ISSUES)

I further swear and affirm that the responses which I have made to the questions [sic.] and instructions below relating to my ability to pay the cost of prosecuting the case are true.

1. Are you presently employed?
  - a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
  - b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

- a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

3. Do you own any cash or checking or savings account?

- a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

- a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state you [sic.] relationship to those persons.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

\_\_\_\_\_  
(SIGN NAME)

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The medical licensing board may conduct such investigations and hearings as it may deem appropriate and necessary in ruling upon motions requesting waiver of the prepayment of fees and costs. Although prepayment of fees and costs may be waived by the medical licensing board, the petitioner shall remain responsible for the payment of fees and costs which payment may be a condition of reinstatement.

*(Medical Licensing Board of Indiana; 844 IAC 7-1-2; filed Apr 12, 1984, 8:28 am: 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 7-1-3 Duties of revoked licensees and registrants**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33**

Sec. 3. In any case where a person's license, registration or approval has been revoked, said person shall:

- (1) Promptly notify or cause to be notified by in the manner and method specified by the board, all patients then in the care of the licensee or registrant, or those persons responsible for the patient's care, of the revocation and of the licensee's or registrant's consequent inability to act for or on their behalf in the licensee's or registrant's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.

(2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status of the revocation accompanied by a list of all patients then in the care of said licensee or registrant.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure, registration or approval:

- (A) Indiana department of public welfare;
- (B) Social Security Administration;
- (C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;
- (D) drug enforcement administration;
- (E) Indiana hospital association;
- (F) Indiana state medical association;
- (G) Indiana pharmacists association;
- (H) American Medical Association;
- (I) American Osteopathic Association;
- (J) Federation of State Medical Boards of the United States, Inc.

(4) Make reasonable arrangements with said licensee's or registrant's active patients for the transfer of all patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or registrant employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license or registration revocation, the licensee or registrant shall file an affidavit with the medical licensing board showing compliance with the provisions of the revocation order and with 844 IAC 7 which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee or registrant is still licensed and/or registered.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

*(Medical Licensing Board of Indiana; 844 IAC 7-1-3; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 7-1-4 Duties of suspended licensees and registrants**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33**

Sec. 4. In any case where a person's license or registration has been suspended, said person shall:

(1) Within thirty (30) days from the date of the order of suspension, file with the medical licensing board an affidavit showing that:

- (A) All active patients then under the licensee's or registrant's care have been notified in the manner and method specified by the board of the licensee's or registrant's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another licensee or registrant of good standing of their own choice.
- (B) All hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status have been informed of the suspension order.
- (C) Reasonable arrangements were made for the transfer of patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or registrant employed by the patient or those responsible for the patient's care.

(2) Proof of compliance with this section shall be a condition precedent to reinstatement.

*(Medical Licensing Board of Indiana; 844 IAC 7-1-4; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 7-1-5 Protection of patients' interests**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33**

Sec. 5. Whenever a person's license or registration has been revoked or suspended, and said person has not fully complied with the provisions of 844 IAC 7-1-3 and 844 IAC 7-1-4, or if said licensee or registrant has disappeared or died or is otherwise unable to comply with said sections, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic association or any county medical or osteopathic society to take such action as may be appropriate to protect the interest of that person's patients.

*(Medical Licensing Board of Indiana; 844 IAC 7-1-5; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 7-1-6 Surrendered licenses**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5-3-1**

Sec. 6. (a) No person who has voluntarily surrendered his license or permit to practice medicine or osteopathic medicine in this state, or who surrenders such license or permit while disciplinary proceedings are pending, with written approval of the medical licensing board, shall be eligible for reinstatement unless that person establishes in a written request and by clear and convincing evidence before the medical licensing board that:

- (1) The person satisfies the requirements of IC 25-22.5-3-1.
- (2) The person has not engaged in the practice for which the person was licensed in this state or has attempted to do so from the date of surrender of his/her license.
- (3) The person can be safely recommended to the public and applicable professions as a person fit to be reinstated, and is able to practice his/her profession with reasonable skill and safety to patients.
- (4) The person is not under any physical, mental or medical disability, including addiction to intoxicants or drugs, which precludes or substantially inhibits the person from safely engaging in the practice of medicine or osteopathic medicine.
- (5) The person has not violated IC 25-22.5-6-2.1 prior to the surrender of licensure.
- (6) The person, during the period in which licensure has been surrendered, has kept abreast of current professional theory and practice.

(b) As a condition precedent or subsequent to reinstatement of a surrendered license, the board may, in its discretion, require the person seeking reinstatement to:

- (1) obtain a complete physical and/or psychiatric examination at the person's expense;
- (2) participate in, and complete, courses of continuing medical education specified and approved by the board;
- (3) pass an examination specified by the board;
- (4) personally appear before board;
- (5) perform or refrain from performing such acts as the board may deem appropriate.

(c) Any person whose license to practice medicine or osteopathic medicine has been surrendered may apply for reinstatement by filing with the medical licensing board ten (10) copies of a petition setting forth that the requirements of 844 IAC 7-1-6(a) have been satisfied or complied with, together with a nonrefundable filing fee of two hundred dollars (\$200).

Upon the filing as such petition and payment of the filing fee, the medical licensing board shall enter an order therein and, if reinstatement is denied and a request for hearing is filed within fifteen (15) days from the date of such denial, shall schedule a hearing. After the hearing the medical licensing board shall determine whether the petitioner has met the requirement set forth in 844 IAC 7-1-6(a), and shall determine whether, as a condition of reinstatement, disciplinary or corrective

measures, including, but not limited to, reexamination, additional training or postgraduate education, or physical or psychiatric examinations should be imposed. The medical licensing board shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 7-1-6 and of any and all disciplinary and corrective measures which may be imposed, enter an order denying or granting reinstatement, accompanied by any and all disciplinary or corrective measures imposed.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the medical licensing board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the medical licensing board. In no event will there be any refund or rebate of any part of the filing fee.

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file the (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the form specified by 844 IAC 7-1-2.

(d) In any case where a person surrenders his/her license to practice medicine or osteopathic medicine, said person shall:

(1) Promptly notify or cause to be notified in the manner and method specified by the board, all patients then in the care of the licensee, or those persons responsible for the patient's care, of the surrender and of the licensee's consequent inability to act for or on their behalf in the licensee's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.

(2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee has privileges or staff status of the surrender, accompanied by a list of all patients then in the care of said licensee.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the surrender licensure:

- (A) Indiana Department of Public Welfare;
- (B) Social Security Administration;
- (C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;
- (D) Drug Enforcement Administration;
- (E) Indiana Hospital Association;
- (F) Indiana State Medical Association;
- (G) Indiana Pharmacists Association;
- (H) American Medical Association;
- (I) American Osteopathic Association;
- (J) Federation of State Medical Boards of the United States, Inc.
- (K) Indiana Association of Osteopathic Physicians and Surgeons

(4) Make reasonable arrangements with said licensee's active patients for the transfer of all patient records, radiographic studies, and test results, or copies [sic.] thereof, to a succeeding licensee employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license surrender, the licensee shall file an affidavit with the medical licensing board showing compliance with the provisions of 844 IAC 7-1-6(d) which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(e) The board may, in its discretion, impose any conditions it deems appropriate regarding the acceptance or surrender of any license to practice medicine or osteopathic medicine including, but not limited to, the following, or any combination thereof:

- (1) periodic physical and/or psychiatric examination;
- (2) participation in continuing medical education courses;
- (3) periodic personal appearances before the board;
- (4) surrender of permits for the issuance of prescriptions for controlled substances;
- (5) the performance, or prohibition against performing, such acts as the board deems appropriate in the public interest or for purposes of rehabilitation or treatment, if cause therefor is established.

(f) Whenever a person's license has been surrendered, and said person has not fully complied with the provisions of 844 IAC 7-1-6(d), or if said licensee has disappeared or died or is otherwise unable to comply with said section, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic society to take such actions as may be appropriate to protect the interests of that person's patients.

(Medical Licensing Board of Indiana; 844 IAC 7-1-6; filed May 3, 1985, 10:44 am: 8 IR 1157; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

#### **844 IAC 7-1-7 Costs of disciplinary proceedings**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-22.5-3-1

Sec. 7. Persons who have been subjected to disciplinary sanctions by the medical licensing board shall be responsible for the payment of the costs of such disciplinary proceedings including, but not limited to, costs for:

- (1) court reporters;
- (2) transcriptions;
- (3) certifications, notarizations;
- (4) photoduplication;
- (5) witness attendance and mileage fees;
- (6) postage for mailings required by law;
- (7) expert witnesses;
- (8) depositions.

(Medical Licensing Board of Indiana; 844 IAC 7-1-7; filed May 3, 1985, 10:44 am: 8 IR 1159; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)

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### **ARTICLE 13. ACUPUNCTURISTS**

#### **Rule 1. Definitions**

##### **844 IAC 13-1-1 Applicability**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 1. The definitions in this rule apply throughout this article.

(Medical Licensing Board of Indiana; 844 IAC 13-1-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 803; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

##### **844 IAC 13-1-2 "Acupuncture" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 2. (a) "Acupuncture" means the evaluation and treatment of persons affected through a method of stimulation of a certain point or points on or immediately below the surface of the body by the insertion of presterilized, single-use, disposable needles, unless medically contraindicated, with or without the application of heat, electronic stimulation, or manual pressure to prevent or modify the perception of pain to normalize physiological functions, or for the treatment of certain diseases or dysfunctions of the body.

(b) The term does not include:

(1) radiology, electrosurgery, chiropractic technique, physical therapy, use or prescribing of any drugs, medications, serums, or vaccines; or

(2) determination of an allopathic differential diagnosis.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 803; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-3 "Acupuncturist" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 3. "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture in Indiana and includes both a licensed acupuncturist and licensed professional acupuncturist.  
*(Medical Licensing Board of Indiana; 844 IAC 13-1-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-4 "ADS" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 4. (a) "ADS" means acupuncture detoxification specialist.

(b) ADS is:

(1) limited to the use of five (5) points in accordance with NADA protocol; and

(2) for the purpose of treating alcoholism, substance abuse, or chemical dependency as defined by IC 25-2.5-2-7.

(c) An ADS is a person who:

(1) has met the minimum requirements as stated in 844 IAC 13-3-1;

(2) is functioning in a dependent relationship with a physician licensed by the board or an acupuncturist licensed by the board; and

(3) is performing under his or her supervision a task or combination of tasks traditionally performed in a chemical dependency treatment program under the law for the purpose of treating alcoholism, substance abuse, or chemical dependency.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-5 "Board" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 5. "Board" refers to the medical licensing board of Indiana.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-5; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-6 "Licensed professional acupuncturist" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1; IC 25-2.5-2-3; IC 25-10; IC 25-14; IC 25-29

Sec. 6. (a) "Licensed professional acupuncturist" refers to the holder of a professional's license under IC 25-2.5-2-3(b).

(b) An licensed professional acupuncturist is a:

(1) chiropractor licensed under IC 25-10;

(2) dentist licensed under IC 25-14; or

(3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture approved by the board.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-7 "Licensed acupuncturist" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1; IC 25-2.5-2-1; IC 25-2.5-2-3

Sec. 7. "Licensed acupuncturist" refers to the holder of a license under IC 25-2.5-2-1 or IC 25-2.5-2-3(a).

*(Medical Licensing Board of Indiana; 844 IAC 13-1-7; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-8 "NADA" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 8. "NADA" refers to the National Acupuncture Detoxification Association.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-8; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-9 "Supervising acupuncturist" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 9. "Supervising acupuncturist" means a medical doctor, osteopathic physician, licensed professional acupuncturist, or licensed acupuncturist approved by the board to supervise and be responsible for a particular ADS. The supervisor is not to supervise more than a total of twenty (20) ADS at any one (1) time.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-9; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-1-10 "Under the direction and supervision of the licensed acupuncturist" defined**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-1

Sec. 10. "Under the direction and supervision of the licensed acupuncturist", as referred to in this rule with reference to ADS, means that the supervising physician or affiliate licensed acupuncturist shall be reasonably available and responsible at all times for the direction and the actions of the practitioner being supervised when services are being performed by the practitioner. The patient's care shall always be the responsibility of the supervising physician or affiliate licensed acupuncturist.

*(Medical Licensing Board of Indiana; 844 IAC 13-1-10; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

### **Rule 2. Licensure**

#### **844 IAC 13-2-1 Application**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-1

Sec. 1. An applicant for acupuncture licensure shall submit the following information:

(1) An application in a form and manner prescribed by the board.

(2) Two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.

(3) The fee specified in section 6 of this rule.

(4) Original or verification of proof of current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture.

(5) Transcript from the training program or acupuncture college program of completion of three (3) years of postsecondary training program or acupuncture college that is approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

- (6) A notarized copy of proof of completion of a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine.
- (7) Verification from all states in which the applicant has been or is currently licensed, which statement shall include whether the applicant has ever been disciplined in any manner.
- (8) Otherwise meets the requirements of IC 25-2.5-2-1.

*(Medical Licensing Board of Indiana; 844 IAC 13-2-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-2-2 Licensure in another state or authorized in another country**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-1; IC 25-2.5-2-3

Sec. 2. An applicant who is licensed in another state or authorized in another country to practice acupuncture shall submit the following information:

- (1) An application in a form and manner prescribed by the board.
- (2) Two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- (3) The fee specified in section 6 of this rule.
- (4) Evidence from the state or country that the applicant holds or has held a license or is authorized to practice acupuncture in another country to the board that the qualifications are substantially equivalent as those specified in section 1 of this rule.
- (5) A notarized copy or original verification of proof of current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture.
- (6) A transcript in the original language of issuance and a translation from the training program or acupuncture college program of completion of three (3) years of postsecondary training program or acupuncture college that is approved or substantially equivalent to the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.
- (7) A notarized copy of proof of completion of a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine.
- (8) Verification from all states in which the applicant has been or is currently licensed, which statement shall include whether the applicant has ever been disciplined in any manner.
- (9) Otherwise meets the requirements of IC 25-2.5-2-1.

*(Medical Licensing Board of Indiana; 844 IAC 13-2-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-2-3 Licensure by tutorial program**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-1

Sec. 3. A person who is a student in a tutorial program in Indiana is eligible to apply for licensure as an acupuncturist as specified in section 1 of this rule if they meet the following requirements:

- (1) The candidate must meet the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) tutorial requirements and the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) Syllabus Program of Study. These requirements will be based upon the current standards of NCCAOM and NACSCAOM.
- (2) The candidate must present proof of certification.

A candidate who meets these requirements is eligible to apply for licensure as an acupuncturist as specified in section 1 of this rule.

*(Medical Licensing Board of Indiana; 844 IAC 13-2-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-2-4 Affiliated professional's license to practice acupuncture**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-1; IC 25-2.5-2-3; IC 25-10; IC 25-14; IC 25-29

Sec. 4. An applicant who is licensed as a chiropractor licensed under IC 25-10, a dentist licensed under IC 25-14, and a podiatrist licensed under IC 25-29 may be granted a professional's license upon submission of the following information:

- (1) An application in a form and manner prescribed by the board.
- (2) Two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- (3) The fee specified in section 6 of this rule.
- (4) An official certificate from the school or program which is an approved college or university of learning accredited by an accrediting agency that has been approved by the United States Department of Education where the applicant obtained two hundred (200) hours of acupuncture training.
- (5) Verification from all states in which the applicant has been or is currently licensed, which statement shall include whether the applicant has ever been disciplined in any manner.
- (6) Otherwise submits proof of current licensure in Indiana as a chiropractor, a podiatrist, or a dentist.

*(Medical Licensing Board of Indiana; 844 IAC 13-2-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-2-5 List of courses and institutions that provide training for a professional's license**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-1; IC 25-2.5-2-3

Sec. 5. (a) A list of courses and institutions that provide training approved for the purpose of qualifying an individual for an affiliated professional's license shall be available from the board through the health professions bureau.

(b) If a program or course is not listed, the board shall review each program on a case-by-case basis.

(c) The aforementioned information shall be submitted for the board's review.

*(Medical Licensing Board of Indiana; 844 IAC 13-2-5; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-2-6 Fees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-1

Sec. 6. The board shall charge and collect the following fees:

Application for licensure	\$150
Affiliated professional's license	\$150
Application for certification as an ADS	\$10
Renewal fee for acupuncturist (does not apply for professional's license)	\$100 per biennium
Renewal fee for professional's license (as an additional fee to be paid upon renewal of the primary license)	\$100
Renewal fee for acupuncture detoxification specialist	\$20 per biennium
Penalty fee for failure to renew	\$150
Duplicate wall license	\$10
Verification of licensure	\$10



(Medical Licensing Board of Indiana; 844 IAC 13-2-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

### Rule 3. Supervision

#### 844 IAC 13-3-1 Acupuncture detoxification specialist; certification

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-7

Sec. 1. (a) An applicant may practice acupuncture detoxification protocol under the supervising acupuncturist within the context of a state, federal, or board approved alcohol, substance abuse, or chemical dependency program upon approval of the board.

(b) The ADS shall provide the board with the following documentation:

- (1) An application in a form and manner prescribed by the board.
- (2) Must be eighteen (18) years or older.
- (3) Two (2) recent passport-quality photographs of the applicant.
- (4) The fee specified in 844 IAC 13-2-6.
- (5) A notarized copy of a high school diploma or general educational development diploma.
- (6) A notarized copy of documentation of successful completion of a board approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that meets or exceeds the standards of training by the National Acupuncture Detoxification Association.
- (7) A notarized copy of proof of completion of a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine or National Acupuncture Detoxification Association.
- (8) A list of all supervisors.
- (9) Otherwise meets the requirements of IC 25-2.5-2-7.

(Medical Licensing Board of Indiana; 844 IAC 13-3-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

#### 844 IAC 13-3-2 Acupuncture detoxification specialist; supervision

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-7; IC 25-27.5-6

Sec. 2. (a) The supervising acupuncturist shall be physically present or readily available at all times that treatment is being administered by the ADS.

(b) A licensed acupuncturist who intends to supervise an ADS shall register his or her intent to do so with the board on a form approved by the board prior to commencing supervision of a ADS. The supervising acupuncturist shall include the following information on the form supplied by the board:

- (1) The name, business address, and telephone number of the supervising acupuncturist or physician.
- (2) The current license number of the acupuncturist or physician.
- (3) A description of the setting in which the ADS will practice under the supervising acupuncturist or physician, including the specialty, if any, of the supervising acupuncturist or physician.
- (4) A statement that the supervising acupuncturist or physician will do the following:
  - (A) Exercise continuous supervision over the ADS in accordance with IC 25-27.5-6 and this article.
  - (B) Review all functions performed by the ADS one (1) time per month and maintain adequate documentation at all times. The supervisor must sign-off on and date the patient chart.
  - (C) At all times, retain professional and legal responsibility for the care rendered by the ADS.
- (5) Detailed description of the process maintained by the acupuncturist, licensed professional acupuncturist, or physician for evaluation of the ADS's performance.

(c) The supervising acupuncturist, licensed professional acupuncturist, or physician shall, within fifteen (15) days, notify the board when the supervising relationship with the ADS is terminated, and the reason for such termination.

(d) If for any reason an ADS discontinues working at the direction and/or under the supervision of the physician, licensed professional acupuncturist, or licensed acupuncturist under which the ADS was registered, such ADS and physician, licensed professional acupuncturist, or licensed acupuncturist shall inform the board, in writing, within fifteen (15) days of such event and his or her approval shall terminate effective the date of the discontinuation of employment under the supervising physician, licensed professional acupuncturist, or licensed acupuncturist, which termination of approval shall remain in effect until such time as a new application is submitted by the same or another physician, licensed professional acupuncturist, or licensed acupuncturist approved by the board. The physician, licensed professional acupuncturist, or licensed acupuncturist and ADS, in such written report, shall inform the board of the specific reason for the discontinuation of employment of the ADS, and/or of the discontinuation of supervision by the physician or licensed to whom the ADS was registered.

(Medical Licensing Board of Indiana; 844 IAC 13-3-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

### Rule 4. License Renewal

#### 844 IAC 13-4-1 Licensure renewal

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-5

Sec. 1. (a) A renewal application shall be submitted to the bureau on or before September 30 of each even-numbered year on a form provided by the bureau.

(b) The application shall be accompanied by the renewal fee required by 844 IAC 13-2-6.

(c) A licensee must sign the renewal application provided by the bureau that verifies that the applicant holds a current active certification by the National Certification Commission for Acupuncture and Oriental Medicine.

(d) A person who holds a license as an acupuncturist must renew biennially as required by IC 25-2.5-2-5.

(e) A person who fails to renew his or her license within three (3) years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if he or she meets all of the requirements.

(Medical Licensing Board of Indiana; 844 IAC 13-4-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 807; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

#### 844 IAC 13-4-2 Licensure renewal for licensed professional acupuncturist

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-5

Sec. 2. (a) A renewal application for chiropractors, dentists, and podiatrists shall be submitted to the bureau on or before the date of the renewal of the primary license. Therefore the renewal of a:

- (1) chiropractor's acupuncture license shall be submitted to the bureau on or before July 1 of each even-numbered year simultaneously with the renewal of the chiropractor license;
- (2) dentist's acupuncture license shall be submitted to the bureau on or before March 1 of each even-numbered year simultaneously with the renewal of the dental license; and
- (3) podiatrist's acupuncture license shall be submitted to the bureau on or before June 30 of the fourth odd-numbered year simultaneously with the renewal of the podiatrist license.

(b) The renewal fee shall be in addition to the renewal fee of the primary license.

(c) A renewal application must be signed, indicating that the practitioner is currently licensed as a chiropractor, dentist, or podiatrist in Indiana.

*(Medical Licensing Board of Indiana; 844 IAC 13-4-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 807; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-4-3 Certification renewal for acupuncture detoxification specialist**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-5

Sec. 3. (a) A renewal application shall be submitted to the bureau on or before September 30 of each even-numbered year on a form provided by the bureau. The application shall be accompanied by the renewal fee required by 844 IAC 13-2-6.

(b) A person who holds a certification as an ADS must renew biennially as required by IC 25-2.5-2-5.

*(Medical Licensing Board of Indiana; 844 IAC 13-4-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 808; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-4-4 Address; change of name**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-2.5-2-5

Sec. 4. (a) Each licensed acupuncturist, licensed professional acupuncturist, or certified ADS shall inform the board, in writing, of all changes of address or name within fifteen (15) days of the change.

(b) A licensed acupuncturist, licensed professional acupuncturist, or certified ADS failure to receive notification of renewal due to failure to notify the board of a change of address or name shall not constitute an error on the part of the board or bureau, nor shall it exonerate or otherwise excuse the licensed acupuncturist, licensed professional acupuncturist, or certified ADS from renewing such license.

*(Medical Licensing Board of Indiana; 844 IAC 13-4-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 808; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

### **Rule 5. Standards of Professional Conduct**

#### **844 IAC 13-5-1 Duties of acupuncturist**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 1. (a) An acupuncturist in the conduct of his or her practice of acupuncture shall abide by, and comply with, the standards of professional conduct in this rule.

(b) An acupuncturist shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment and prognosis, and all records relating thereto, about which the acupuncturist may learn or otherwise be informed during the course of, or as a result of, the patient-acupuncturist relationship. Information about a patient shall be disclosed by an acupuncturist when required by law or when authorized by the patient or those responsible for the patient's care.

(c) An acupuncturist shall give a truthful, candid, and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where an acupuncturist reasonably determines that the information is or would be detrimental to the physical or mental health of the patient or, in the case of a minor or incompetent person, except where an acupuncturist reasonably determines that the information would be detrimental to the physical or mental health of those responsible for the patient's care.

(d) The acupuncturist shall give reasonable written notice to an active patient or those responsible for the patient's care when the acupuncturist withdraws from a case so that another acupuncturist may be employed by the patient or by those responsible for the patient's care. An acupuncturist shall not abandon a patient. As used in this section, "active patient" means a person whom the acupuncturist has examined, cared for, or otherwise consulted with, during the two (2) year period prior to retirement, discontinuation of practice of acupuncture, or leaving or moving from the community.

(e) An acupuncturist who withdraws from a case, except in emergency circumstances, shall, upon written request, make available to his or her patient all records, test results, histories, diagnoses, files, and information relating to the patient that are in the acupuncturist's custody, possession, or control, or copies of such documents herein before described.

(f) An acupuncturist shall exercise reasonable care and diligence in the diagnosis and treatment of patients based upon approved scientific principles, methods, treatments, professional theory, and practice.

(g) An acupuncturist shall not represent, advertise, state, or indicate the possession of any degree recognized as the basis for licensure to practice acupuncture unless the acupuncturist is actually licensed on the basis of such degree in the state or states in which he or she practices.

(h) An acupuncturist shall obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care.

(i) An acupuncturist who has personal knowledge based upon a reasonable belief that another acupuncturist has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of acupuncture shall promptly report such conduct to the board. Further, an acupuncturist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of acupuncture shall promptly report such conduct to the board.

*(Medical Licensing Board of Indiana; 844 IAC 13-5-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 808; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-5-2 Fees for services**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 2. (a) Fees charged by an acupuncturist for his or her professional services shall compensate the acupuncturist only for the services actually rendered.

(b) An acupuncturist shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation unless the:

(1) patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made; and

(2) division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(c) An acupuncturist shall not pay or accept compensation from a practitioner for referral of a patient.

*(Medical Licensing Board of Indiana; 844 IAC 13-5-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-5-3 Responsibility for employees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 3. An acupuncturist shall be responsible for the conduct of each and every person employed by the acupuncturist for every action or failure to act by the employee or employees in the course of the employee's relationship with the acupuncturist, provided, however, that an acupuncturist shall not be responsible for the action of persons he or she may employ whose employment by the acupuncturist does not relate directly to the acupuncturist's practice of acupuncture.

(Medical Licensing Board of Indiana; 844 IAC 13-5-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

#### **844 IAC 13-5-4 Referral**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) A licensed acupuncturist may only provide services upon the referral of a licensed medical doctor or doctor of osteopathic medicine. This subsection does not apply to licensed professional acupuncturist.

(b) An acupuncturist may, whenever the acupuncturist believes it to be beneficial to the patient, send or refer a patient to a qualified specific health care provider. Prior to any such referral, however, the acupuncturist shall examine and/or consult with the patient to reasonably determine that a condition exists in the patient that would be within the scope of practice of the specific health care provider to whom the patient is referred.

(Medical Licensing Board of Indiana; 844 IAC 13-5-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

#### **844 IAC 13-5-5 Discontinuation of practice**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 5. (a) An acupuncturist, upon his or her retirement, upon discontinuation of the practice of acupuncture, or upon leaving or moving from a community shall notify all of his or her active patients, in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that he or she intends to discontinue his or her practice of acupuncture in the community and shall encourage his or her patients to seek the services of another licensed practitioner. The acupuncturist discontinuing his or her practice shall make reasonable arrangements with his or her active patients for the transfer of his or her records, or copies thereof, to the succeeding practitioner or an acupuncture association approved by the board.

(b) Nothing provided in this section shall preclude, prohibit, or prevent an acupuncturist from selling, conveying, or transferring for valuable consideration, the acupuncturist's patient records to another licensed practitioner who is assuming his practice, provided that written notice is given to patients as provided in this section.

(Medical Licensing Board of Indiana; 844 IAC 13-5-5; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

#### **844 IAC 13-5-6 Advertising**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 6. (a) An acupuncturist shall not, on behalf of himself or herself, a partner, an associate, or any other practitioner or specific health care provider affiliated with the acupuncturist, use, or participate in the use of, any form of public communication containing a false, fraudulent, materially misleading, or deceptive statement or claim.

(b) In order to facilitate the process of informed selection of an acupuncturist by the public, an acupuncturist may advertise services through the public media, including, but not limited to, a telephone directory, acupuncturists' directory, newspaper or other periodical, radio or television, or through a written communication not involving personal contact.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the acupuncturist, and a recording and transcript of the actual transmission shall be retained by the acupuncturist for a period of three (3) years from the last date of broadcast.

(d) If the acupuncturist advertises a fee for acupuncture material, service, treatment, consultation, examination, or other procedure, the acupuncturist must provide that material, service, or procedure for no more than the fee advertised.

(e) Unless otherwise conspicuously specified in the advertisement, an acupuncturist who publishes or communicates fee information in a publication that is published more than one (1) time per month shall be bound by any representation made therein for a period of thirty (30) days after the publication date. An acupuncturist who publishes or communicates fee information in a publication that is published once a month or less frequently shall be bound by any representation made therein until the publication of the succeeding issue unless a shorter time is conspicuously specified in the advertisement. An acupuncturist who publishes or communicates fee information in a publication that has no fixed date for publication for a succeeding issue shall be bound by any representation made therein for one (1) year, unless a shorter period of time is conspicuously specified in the advertisement.

(f) Unless otherwise specified in the advertisement, an acupuncturist who broadcasts fee information by radio, cable, or television shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) An acupuncturist who places an advertisement using a corporation name or trade name is required to identify the location or locations at which the acupuncture service will be provided. The name of the acupuncturist who will provide the acupuncture services must be identified at that location.

(Medical Licensing Board of Indiana; 844 IAC 13-5-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

#### **844 IAC 13-5-7 Failure to comply**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 7. Failure to comply with the standards of professional conduct and competent practice of acupuncture may result in disciplinary proceedings against the offending acupuncturist. All acupuncturists licensed in Indiana shall be responsible for having knowledge of the standards of conduct and competent practice established by IC 25-2.5.

(Medical Licensing Board of Indiana; 844 IAC 13-5-7; filed Oct 9, 2001, 2:52 p.m.: 25 IR 810; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)

### **Rule 6. Revocation or Suspension of License**

#### **844 IAC 13-6-1 License revocation; duties of licensees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 1. In any case where a practitioner's license has been revoked, the person shall do the following:

(1) Promptly notify, or cause to be notified, in the manner and method specified by the board, all patients then in the care of the practitioner, or those persons responsible for the patient's care, of the revocation and of the practitioner's consequent inability to act for or on their behalf in the practitioner's professional capacity. Such notice shall advise all patients to seek the services of another practitioner in good standing of their own choice.

(2) Promptly notify, or cause to be notified, all health care facilities where such practitioner has privileges of the revocation accompanied by a list of all patients then in the care of such practitioner.

(3) Notify, in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure:

(A) The Indiana department of public welfare.

(B) Social Security Administration.

(C) The board or equivalent agency of each state in which the person is licensed to practice acupuncture.

(D) The National Certification Commission for Acupuncture and Oriental Medicine.

(4) Make reasonable arrangements with the licensee's active patients for the transfer of all patient records, studies, and test results, or copies thereof, to a succeeding practitioner employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license revocation, the practitioner shall file an affidavit with the board showing compliance with the provisions of the revocation order and with 844 IAC 7, which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the practitioner is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

*(Medical Licensing Board of Indiana; 844 IAC 13-6-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 810; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-6-2 License suspension; duties of licensees**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 2. (a) In any case where a person's license has been suspended, the person shall, within thirty (30) days from the date of the order of suspension, file with the board an affidavit that states the following:

(1) All active patients then under the practitioner's care have been notified in the manner and method specified by the board of the practitioner's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another practitioner of good standing of their own choice.

(2) All health care facilities where such practitioner has privileges have been informed of the suspension order.

(3) Reasonable arrangements were made for the transfer of patient records, studies, and test results, or copies thereof, to a succeeding practitioner employed by the patient or those responsible for the patient's care.

(b) Proof of compliance with this section shall be a condition precedent to reinstatement.

*(Medical Licensing Board of Indiana; 844 IAC 13-6-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 810; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-6-3 Reinstatement**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 3. No person whose license to practice acupuncture in Indiana has been suspended shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the board the following:

(1) The person desires in good faith to obtain restoration of such license.

(2) The term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation.

(3) The person has not engaged in the practice of acupuncture or has attempted to do so from the date discipline was imposed.

(4) The person has complied fully with the terms, if any, of the order for suspension or revocation.

(5) The person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse.

(6) The person has a proper understanding of an attitude toward the standards that are imposed by statute or rule upon persons holding such license as had been suspended and the person can be

reasonably expected to conduct himself in conformity with such standards.

(7) The person can be safely recommended to the public and applicable profession as a person fit to be reinstated and is able to practice his or her profession with reasonable skill and safety to patients.

(8) The disability has been removed, corrected, or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs.

(9) The person has successfully taken and completed such written examinations and tests as may be required by the board and has completed professional training.

*(Medical Licensing Board of Indiana; 844 IAC 13-6-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 811; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **844 IAC 13-6-4 Petitions for reinstatement; filing fee**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) Any person whose license has been suspended may apply for reinstatement by filing with the board a petition stating that the requirements of 844 IAC 7-1-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the board together with a filing fee of four hundred dollars (\$400).

(b) Upon the filing of such petition and payment of the filing fee, the board shall schedule a hearing. After the hearing, the board shall determine whether the petitioner has met the requirements set forth in the disciplinary order and shall determine whether, as a condition to reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training, or postgraduate education, or a preceptorship, should be imposed. The board shall thereafter, upon satisfactory compliance with 852 IAC 1-12-1 and of any and all disciplinary and corrective measures that may be imposed, enter an order continuing the suspension or reinstating the license to the petitioner.

(c) Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the board in conducting a hearing upon the petition for reinstatement that exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the board. In no event will there be any refund or rebate of any part of the filing fee.

*(Medical Licensing Board of Indiana; 844 IAC 13-6-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 811; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **Rule 7. Notification of Practice Location**

##### **844 IAC 13-7-1 Professional sign; notification of public; facility requirements**

**Authority:** IC 25-22.5-2-7

**Affected:** IC 25-1-9; IC 25-22.5-1

Sec. 1. (a) A practitioner has a duty and responsibility in the establishment of an office for the practice of acupuncture to maintain a sign clearly visible to the public indicating the name or names of all practitioners practicing at that location. The minimum requirements on the sign are the practitioner's name and title.

(b) The practitioner's title may be written as follows:

(1) If a practitioner is licensed under this article, the practitioner may refer to themselves as either an acupuncturist or a licensed acupuncturist.

(2) If the practitioner is a professional, the practitioner may use:

(A) the doctorate initials, such as D.C., D.D.S., or D.P.M.; or

(B) acupuncturist.

(c) A sign may not be misleading to the public.

(d) A practitioner has a duty and responsibility in the establishment of an office for the practice of acupuncture to maintain a safe and hygienic facility adequately equipped to provide acupuncture services.

*(Medical Licensing Board of Indiana; 844 IAC 13-7-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 811; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*